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ABSTRACT (200-300 WORDS)

California farm labor problems include limited work opportunity; low earnings; little economic security; poor health, housing, and education; and unsafe working conditions. Representatives of organized labor recommend establishing a state minimum wage law to cover all employees, including agricultural workers, and also extending Federal statute to cover farm employees. Little support is received for including farm employees in a state minimum wage law. Difficulties in the agricultural extension of unemployment insurance include administrative problems, the risk factor in seasonal employment, and added expense to farm employers.

Long-term recognition of the health problem of seasonal farm workers has not led to significant remediation. Consistency of findings, repeated recommendations, and lack of action are noted. A summary of health recommendations made by California groups from 1915 to 1960 is presented in a table. Actions taken from 1961 to 1962 are listed.

Adequate housing can be achieved by attacking the causes of the problem which are the need for adequate pay and maximum employment opportunity. Public welfare programs can relieve conditions, but they have limited ability to strike at the causes of the problem.

Federal and state laws and administrative regulations for labor have not prevented a wave of disputes in California agriculture. There is a need for a different method of governmental handling of farm labor strife.

Appendixes are included.

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Report of the

SENATE FACT FINDING COMMITTEE
ON LABOR AND WELFARE

California's Farm Labor Problems

PART II

ED002493

Published by the
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of the State of California, 1963

GLENN M. ANDERSON
President of the Senate

HUGH M. BURNS
President pro Tempore

JOSEPH A. BEEK
Secretary

U. S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
Office of Education

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REPORT OF THE

SENATE FACT FINDING COMMITTEE ON LABOR AND WELFARE

CALIFORNIA'S FARM LABOR PROBLEMS

PART II

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VERNON L. STURGEON, Vice Chairman

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Albert S. Rodda	Alvin C. Weingand
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Published by the
SENATE
OF THE STATE OF CALIFORNIA
1963

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LETTER OF TRANSMITTAL

SENATE CHAMBER, STATE CAPITOL
SACRAMENTO, CALIFORNIA, January 28, 1963

HONORABLE GLENN M. ANDERSON
President of the Senate
Senate Chamber, State Capitol
Sacramento, California

MR. PRESIDENT: Pursuant to Senate Resolution No. 214, read and adopted June 16, 1961, at the Regular Session of the Legislature, and pursuant to Senate Committee on Rules Resolution No. 7, adopted September 15, 1960, the Senate Fact Finding Committee on Labor and Welfare submits the second portion of its fact finding report on California's farm labor problems.

The committee wishes to gratefully acknowledge the invaluable assistance rendered by the many agencies, groups, and individuals who have, through their testimony and by submitting material at the committee's request, contributed immeasurably to both Part I and Part II. *Above all*, however, we express our gratitude to the many working agricultural people—farmers and hired farm laborers—for their aid. For it is the individual farm worker, employer and employee both, whose economic and social well-being is most immediately affected, about whose future we hold the ultimate concern.

Respectfully submitted,

JAMES A. COBEY, Chairman
VERNON L. STURGEON, Vice Chairman
JOSEPH A. RATTIGAN—with reservations *
ALBERT S. RODDA—with reservations **
JOHN F. THOMPSON
ALVIN C. WEINGAND

---

* For Senator Rattigan's explanation of reservations, see page 14.
** For Senator Rodda's explanation of reservations, see page 13.

LETTER OF TRANSMITTAL

January 28, 1963

HONORABLE GLENN M. ANDERSON
President of the Senate
Senate Chamber, State Capitol
Sacramento, California

MR. PRESIDENT: I find myself not in accord with many conclusions and recommendations of the report; and therefore respectfully dissent.

STANFORD C. SHAW

PREFACE

In reporting on its study of California's Farm Labor Problems, the Senate Fact Finding Committee on Labor and Welfare has presented its findings in two parts. Part I, dated June 16, 1961, dealt primarily with the essential character of agriculture and the demand for, and supply of, seasonal farm labor in California (see Appendix A, Exhibit 1, page 77, for Table of Contents of Part I).

A complexity of problems permeate the lives of the people who toil as temporary agricultural workers—people recently called the "excluded Americans—outside the protection of most laws that protect other American working people. . . ."[1] These problems, stemming from both the individual's and society's flaws, include limited work opportunity; low earnings; little economic security; poor health, housing and education; and often unsafe working conditions. Part II of the committee's report examines these problems and various suggested solutions to alleviate their debilitating effects.

The primary source material used in Part II is the same as that drawn upon in Part I; namely, the verbal testimony, prepared statements, and supporting data submitted to the committee during the course of its 10 days of public hearings. The dates of these hearings and a list of the witnesses testifying appear here as Appendix A, Exhibit 2, page 80. Although no further hearings were held during the interval between submission of the two sections of the report, the committee directed its staff to augment the previously compiled information where necessary.

First, however, it is vital that the causal relationship of the economic and social problems faced by temporary farm workers to their employment as farm laborers be understood. The roots of these problems do not generally lie in the employment environment, but rather in the shortcomings of these people themselves and in our society as a whole.

> "In a somewhat obscure way, temporary farm work is as much a conjuncture of unsolved social and economic problems as it is an employment category. The cause and effect relationships that appear in this conjuncture are sometimes confusing. When the workers are found to be poor or destitute, farm wages and employment conditions are often blamed. Actually, the cause and effect relationship, at least initially at the time of entry into farm work, may be more the other way. The people have not become poor from working in agriculture; they have become agricultural workers because they were already poor. Thus, in the sense of providing an opportunity for those not accepted elsewhere, temporary farm work may be regarded as ameliorating poverty rather than causing it." (Fuller, Varden, Ph.D., Professor of Agricultural Economics, Giannini Foundation of Agricultural Economics, University of California, Berkeley, pp. 142-3, Nov. 17, 1959.)

In a majority of cases, temporary farm employment cannot be held initially responsible for causing problems of poverty, poor health, etc.

---

[1] Mitchell, Hon. James P., U.S. Secretary of Labor, speech to the National Conference to Stabilize Migrant Labor, Chicago, Nov. 21, 1959.

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CHAPTER I

MINIMUM WAGE

The three major purposes of a minimum wage are: (1) to set in motion the forces leading to the use of labor in more productive and remunerative employment; (2) to establish an economic minimum standard of living and labor conditions necessary for the health, efficiency, and general well-being of employees; and (3) to place a floor under wages in those situations and areas where an employer can pay less because of a labor surplus and thereby practices an unfair method of competition.[2]

EXISTING PROVISIONS

On a national level, the Fair Labor Standards Act (29 U.S.C.A. 201-219) provides for, among other things, a minimum wage for employment in interstate commerce or in the production of goods for interstate commerce. Although most of the food and fiber output of United States farmers is grown on farms that produce goods for shipment in interstate commerce, agricultural employment is specifically exempted from the provisions of the act (Sec. 213 (6), (16), (18), (21), and (22)).

California's statutes contain no minimum wage provisions relating to general employment in intrastate commerce or manufacturing comparable to those in the Fair Labor Standards Act for interstate commerce. However, work orders establishing minimum wages for women and youth employed in specific industries, including agriculture, have been adopted by the Industrial Welfare Commission, State Department of Industrial Relations, under the authorization granted it by Sec. 1177, *et seq.*, Labor Code (see Part I, Employment of Women and Youth, page 188).

ARGUMENTS FOR AND AGAINST

Representatives of organized labor have enthusiastically recommended establishing a state minimum wage law to cover all employees, including agricultural workers, and also extending the federal statute to cover farm employees. Making provisions for coverage of farm laborers at either governmental level would, it is asserted:

(1) Improve the work opportunity and earnings of farm workers;

(2) Increase the value of and returns from the labor performed by working farmers;

(3) Assist in stengthening agriculture's economic position in the economy; and

(4) Afford protection to society against the adverse economic and social effects of substandard wages (Pitts, Thomas L., Secretary-Treasurer, California Labor Federation, AFL-CIO, pp. 104-5, June 15, 1960; and Smith, Norman, California Director, Agricultural Workers Organizing Committee, AFL-CIO, pp. 416-18, Jan. 28, 1960).

Little support, aside from that of organized labor's, was received for including farm employees in a state minimum wage law.[3] Vigorous opposition to such a statute was presented by many persons, however, and was primarily predicated on: the high farm wage rates already paid in California relative to those paid in other parts of the United States (see Figure 34, Part I); California agriculture's great dependence on out-of-state markets in competition with growers who have significantly lower labor costs (see page 44, *et seq.*, Part I); and the effects of the price-cost squeeze on farm employers which prevent significant wage rate increases (see page 33, *et seq.*, Part I). Cognizance of these serious problems was indicated by representatives of labor.

> ". . . I think that it is only realistic, and I think that is the position of our committee and certainly it is my position as the director in this state, that if we are to have minimum wage laws, that it would be a good deal better to have them on a federal basis, if they are made realistic, rather than to have them on a statewide basis. But we do feel that the same people who oppose legislation of this type on a state basis, their representatives are the same ones who oppose it on the national scale." (Smith, *op. cit.*, p. 401, Jan. 28, 1960.)

Proposals for the extension of federal minimum wage provisions to cover farm laborers, on the other hand, received heterogeneous support.

> "We encourage more vigorous efforts in behalf of federal and state legislation to extend the federal minimum wage . . . for migratory farm workers." (Carhart, Suzanne L., field worker for the California Migrant Ministry, National Council of Churches, p. 10, Dec. 15, 1960.)

---

[2] See Fair Labor Standards Act (29 U.S.C.A. 202) and *Problems Involved in Applying a Federal Minimum Wage to Agricultural Workers*, Vol. 1, U.S. Department of Labor, April 30, 1960, p. ix.

[3] For one exemption, see testimony of Murray, James, Acting Secretary, California Citizens Committee for Agricultural Labor, Jan. 26, 1960, pp. 82-88.

> ". . . I testified before the Williams' Committee[4] here in Sacramento and suggested at that time that I felt that many farmers in California would support the proposition that there needs to be a national minimum wage. I think in terms of the competitive factors that influence our values in California crops that a national minimum wage would be the most helpful to many of our competitive crops here in California. . . ." (Bunje, Ralph B., General Manager, California Canning Peach Association, pp. 225-6, Dec. 16, 1960.)

> "**Senator Rodda**: I would like to understand your position with regard to minimum wages. As I understand it, you said that you would favor a national minimum wage for agricultural laborers, right?
>
> "**Mr. Zuckerman**: Right." (Zuckerman, John, farmer and Member, Federal Advisory Council to the U.S. Secretary of Labor, p. 73, Nov. 16, 1959.)

> ". . . our committee, comprising family farm operators for the most part, is on record for a national minimum wage for farm labor, not only as a simple act of justice and economic stability to upgrade the living standards of these lowest paid, essential workers, but in fairness to those farmers who pay a comparatively high farm wage. . . ." (Davis, Philip, Northern California Co-ordinator, California Farm Research and Legislative Committee, p. 355, Jan. 28, 1960.)

In recent years the California Legislature itself has repeatedly requested Congress to extend the federal minimum wage provisions to farm workers (see Appendix B, Exhibit 1, page 89).

Opposition to a national minimum wage for farm employees came principally from the California Farm Bureau Federation. Their criticism was fundamentally on the grounds that such a minimum would not necessarily increase the real wage, or purchasing power, of the worker, nor would it alleviate the problems of the many workers in securing more work or those of the farmer in obtaining a more efficient seasonal work force (Heringer, Fred, farmer and Second Vice President, California Farm Bureau Federation, p. 115, Nov. 16, 1959; and Hanley, Robert E., Legislative Representative, CFBF, p. 249, Dec. 16, 1960). Other contentions advanced at the national level hold that an agricultural minimum wage is not desirable because:

(1) It is not needed since, relatively, United States farm operators' net income from farming had *decreased* 5 percent while the United States farm wage rate had *increased* 42 percent in the period from 1947 to 1959 (see Figure 1);

(2) The increasing price-cost squeeze on United States farm operators makes paying higher wage rates more and more difficult;

(3) Increases in farm wages will bear most harshly on small farmers;

(4) It would be impractical in agriculture due to the prevalence of perquisites and piecework rates and because of the wide variation of the farm labor force in skill and productivity; and

(5) A national farm minimum wage would work to the detriment of farmers in high wage, low labor supply areas by increasing rates in the low-wage, high-labor-supply regions, thereby cutting off the supply of seasonal migratory labor now available and vital.[5]

FIGURE 1

U.S. Farm Wages in Relation to U.S. Farm Income 1947-1959

	Index of farm wage rates (1910-14=100)	Farm operators' net income from farming per farm
1947	[illegible]	[illegible]
1948	[illegible]	[illegible]
1949	[illegible]	[illegible]
1947-49 (average)	[illegible]	[illegible]
1950	[illegible]	[illegible]
1951	[illegible]	[illegible]
1952	[illegible]	[illegible]
1953	[illegible]	[illegible]
1954	[illegible]	[illegible]
1955	[illegible]	[illegible]
1956	[illegible]	[illegible]
1957	[illegible]	[illegible]
1958	[illegible]	[illegible]
1959	[illegible]	[illegible]

SOURCE: "Hearings Before the Subcommittee on Migratory Labor, Part 2," U.S. Senate Committee on Labor and Public Welfare, Washington, D.C., 1961, p. [illegible].

EFFECTS OF AN AGRICULTURAL MINIMUM WAGE

The first result of a minimum wage covering farm workers would be the elimination of wage rates below the social standard set in the statute. In the farm labor field in California and the United States, justification of the need for an agricultural minimum wage solely on a social or moral basis is self-evident. If the consequences of such a minimum wage were limited to its social effects, it would be worth doing at both state and federal levels as a matter of social policy. But the setting of a minimum wage would inexorably be followed by a sequence of economic results directly affecting farmers, farm workers, the agricultural economy, and, indirectly, our total state and national economy. These substantial economic consequences require close examination.

---

[4] See *Hearings Before the Subcommittee on Migratory Labor, Part 2*, Hon. Harrison A. Williams, Jr., Chairman, U.S. Senate Committee on Labor and Public Welfare, Washington, D.C., 1961, p. [illegible].

[5] Triggs, Matt, Assistant Legislative Director, American Farm Bureau Federation in testimony to the U.S. Senate Subcommittee on Migratory Labor, *Hearings, Part 2*, op. cit., pp. [illegible].

Basic to the immediate and long-range effects of a minimum wage would be the manner in which it is extended to agriculture and the level at which the minimum is set. Ideally, both of these factors should strike a balance between producing the desired effects (*i.e.*, foster more productive and remunerative use of labor, establish an economic floor under wages of workers, and eliminate unfair competition by means of substandard wages) and providing time and opportunity for necessary adjustments on the part of farm operators and farm workers. The kinds of adjustments required to meet changing economic conditions caused by a minimum wage are summarized below.

One overall result to be expected of a minimum wage would be an improvement in the productivity level of the labor used and an increase in the earnings of the workers who continue to be employed. In some instances farm employers might not be able, for one reason or another, to pay what the minimum requires. This inflexibility would probably result in termination of such enterprises and the total layoff of employees. In other situations the employer, already using the best available techniques and equipment but not paying the minimum, might be able to pay more without any change in operations or technology with the probable net result of a raise in the workers' pay and no decrease in the number of jobs available. The most common change, however, should be one in which most of the affected farming operations would increase the productivity of the labor used in one way or another (*e.g.*, replacing slow workers with faster ones; increasing use of machinery).

Concomitant with its improvement in farm worker productivity and income, a minimum wage in agriculture would reduce, at least immediately, the demand for labor by providing the incentive for farmers to eliminate or change those low productive activities which cannot carry the minimum wage.

Workers whose productivity could not be supported by the minimum would, in many instances, be forced from the farm labor market. This would be expected to occur particularly to those persons currently employed on a seasonal basis who cannot find jobs in other industrial segments of the economy because of age (*i.e.*, too young or too old), mental and physical handicaps, or lack of education and training. In thus losing their last resort to secure at least partial self-support many of these persons would become wholly dependent upon welfare programs for their maintenance and possible rehabilitation.

One problem to be avoided in implementing a minimum wage is that of producing too rapid or too substantial a decrease in labor demand. This adverse effect would be minimized if the minimum wage specified in the law were established at a level and ". . . to activities in which wages above the minimum are already common, demonstrating that the techniques and processes that can support the wage are not only known but (are) in reasonably widespread use."[6] Applied in this fashion, a minimum wage would have tolerable effects upon the immediate displacement of workers. It would also serve to equalize the market place competition between growers, some of whom have great cost advantages because their farm labor market is oversupplied.

Another danger in extending minimum wage coverage to farmworkers would be that of price inflation which could erode the gains in the workers' income. A time-cushion for employer adjustments to increased labor costs would be necessary in both the manner in which the minimum standard is extended and in the level of the wage itself. This element of flexibility is particularly vital since it is estimated that farmers would have to absorb most of the cost increase rather than being able to secure compensating price increases for their produce.[7]

In summary, an agricultural minimum wage would influence directly the farm labor market, including its size and composition, and the demand for farm workers. It would also induce changes in the structure of agricultural production by improving the utilization of labor and other inputs. Finally, it would initiate an advancement in the economic position of the farm wageworker—a betterment which must take place before many of the other problems plaguing seasonal farm employees can be dealt with successfully.

STATE AGRICULTURAL MINIMUM WAGE

In the current structure of agriculture in California and in the operation of our farm labor market there appear to be four basic factors which, taken together, would preclude the potential benefits of a state minimum wage for hired farm laborers. These are:

(1) The high wage rates paid in California's agriculture compared to those paid elsewhere in the country (see Part I, Figure 36);

(2) The great dependence of this State's agriculture on out-of-state markets (see Part I, Figure 39);

(3) The prevalence in California of crops in which it is currently very difficult to increase labor productivity (see Part I, Figures 31 to 35); and

(4) The existing deficient supply of seasonal farm labor in California (see Part I, page 75, *et seq.*).

---

[6] *Problems Involved in Applying a Federal Minimum Wage to Agricultural Workers*, op. cit., p. 76.

[7] Ibid., p. 166.

If a state minimum wage covering farm wage workers were enacted, it would initially place California growers in an even less competitive position in the interstate marketing of their crops. Growers in most other states already have significantly lower labor costs in producing products which directly or indirectly compete with those raised in California. And in many instances this competition is much closer to the large wholesale and retail markets in the East and Middle West and, thereby, gains an additional cost advantage in lower transportation charges. Higher labor costs, therefore, resulting from such a minimum wage would generally have to be absorbed by the California farmer without hope of offsetting them by increased returns for his crop. Thus a state minimum wage could be expected to force the withdrawal of California's farmers from these markets, wholly or partially, and to this extent injure not only our agricultural economy but the total economy of the State.

Secondly, many of the high labor-using, low-paying crop activities in California are those in which the farmer has little opportunity to improve worker productivity. These are activities which are difficult to mechanize. They are also activities which, in recent history, have suffered from a shortage rather than a surplus of domestic seasonal labor. The application of a state minimum wage to these crops, already suffering from the "short" California farm labor market, might well be expected to have a reverse effect—workers unable to meet higher productivity standards would be driven out of the market at a faster rate than new, more capable workers could be attracted. Thus instead of smoothly balancing labor supply to demand, a minimum wage would violently increase the gap between supply and demand. Unless it were established at a level so low as to require no change whatsoever, a state minimum wage would operate in such an inflexible way as to curtail significantly the growing of these crops.

Accordingly, although there is, in summary, little serious disagreement with the contentions that California farmers must make better use of hired labor and the other input resources available to them, and that wage rates paid in some crop activities and in some geographic areas must be raised in order to increase their labor supply, a state minimum wage does not appear to be a feasible way to achieve these goals.

FEDERAL AGRICULTURAL MINIMUM WAGE

The four fundamental factors, previously listed, which make a state minimum wage for agricultural workers undesirable have no such effect when applied to a national farm minimum wage reasonably conceived and reasonably applied. An exhaustive study of a federal minimum wage for farm workers, undertaken by the U.S. Department of Labor, concluded:

> "The minimum wage needs to be set with due regard for the capacity of agriculture to adjust to it, by improvements in resource use and labor utilization, without the risk of substantial curtailment of employment opportunities or other adverse effects on the economy. In terms of the social desirability of moving hired farm workers out of unacceptable unremunerative employment, the foreseeable displacement of labor is within reasonable limits. There appear to be no insuperable difficulties in administering an agricultural minimum wage.
>
> "On this basis, the merits of a minimum wage for farm workers can be considered in terms of its potentialities for inducing improvements in productivity, reshaping the structure of the farm work force and labor market, rationalizing the use of labor, and improving the earning power and incomes of those who depend upon farm wages for a living—according to some standard consistent with technological possibilities in agriculture and consonant with expectations of American life." [9]

California and this State's farmers and farm workers would benefit immeasurably through the equalizing effect a federal minimum wage would exert in the farm product market place. And any improvement in the competitive position of this State's growers would, in turn, increase their ability to improve the utilization of and pay to wage workers. Thus a federal agricultural minimum wage would set in motion major forces to create a more efficient, dependable, and productive seasonal labor supply in California and furnish these workers a higher economic and social potential.

EXPLANATION OF RESERVATIONS

SENATOR JOSEPH A. RATTIGAN

In the field of agricultural minimum wages, I do not disagree with the committee's principal conclusion. My concurrence, though, should not supplement the weaponry of those who, as a matter of dogma, oppose an agricultural minimum wage law in California or anywhere else.

The committee's report cites the adverse competitive effect—of consequent cost increases to California farmers who are dependent on out-of-state markets—as one disadvantage of a state minimum wage law in agriculture. I think the degree of disadvantage would depend entirely upon the degree of cost increase embodied in a specific proposal. The ultimate judgment, whether the economic price to California should be paid to achieve a proper moral and social objective in a given case, should not be cast in advance.

The report also states that a federal minimum wage law in agriculture—having "equalizing effects"—

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[9] Ibid., p. 60.

would achieve benefits rather than disadvantages. My thought is that, if a federal law were to set a national minimum wage below the going wage in California agriculture, its effect would be neither "equalizing," beneficial, nor even relevant to California. In other words, both statements by the committee are valid as principles. The application of either, however, depends upon specifics. Neither would justify a plenary inference that principles alone, without specifics, should operate as an absolute bar to a state minimum wage law in agriculture.

Accepting these principles as such, I will agree that state inaction in this area is presently justifiable because legislation by the Congress is preferable. This conclusion is economic rather than moral. Its validity is perishable; one morally responsible sovereign cannot forever defer to another. The Congress of the United States should alleviate the farm wage problem by enacting national minimum wage standards in agriculture. If the Congress persists in its refusal to do so, California must face and solve the problem alone.

(Signed) *JOSEPH A. RATTIGAN*

EXPLANATION OF RESERVATIONS

SENATOR ALBERT S. RODDA

The farm labor problem has developed in an area of our economy in which both sides, management and labor, are at a disadvantage relative to other segments of the economic system. The farmers, compelled by conditions of perfect competition to overproduce and confronted with a buyers' monopoly, are unable to establish prices which are a fair measure of the importance of agricultural production to the nation. Despite their best efforts to increase the efficiency of production through mechanization and the use of more power, farmers are engaged in a losing struggle to increase agriculture's share of the national income. However, society has long recognized this fact and has endeavored, through market controls, farm subsidies, and other forms of assistance, to improve agriculture's position. Though at a disadvantage relative to industry and commerce, farmers, because of the protective power of the state, have established themselves in a position of power with reference to farm labor. Agricultural labor, completely unorganized, unprotected by collective bargaining, and practically neglected as far as social legislation is concerned, is probably the most disadvantaged segment of the American economy. Its position is considerably weaker than that of the farm operators and will become even weaker as farm units become larger and more industrialized, a definite trend in California.

The farm labor study, while acknowledging the miserable economic position of farm labor and the almost complete lack of social welfare legislation in its behalf, recommends against collective bargaining, against a state minimum wage, and for an indefinite continuation of the bracero program. In effect, it places farm workers at the mercy of a hope expressed by Mr. Lloyd F. Fisher in 1953 that in the long run things would improve. At that time Fisher wrote, and I quote:

> "Such promise of improvement as does exist rests with longer periods and more general economic processes. There is perhaps more hope to be found in the dwindling of the agricultural labor force as farm mechanization makes great strides and as the proportion and number of agricultural workers in the labor force continues its long time secular decline than in any program for the reform of the agricultural market. Obviously, in the meantime, whatever opportunities for improvement present themselves, they should be seized. Whatever the limits of tolerance for reform, they should be exploited to the full. Secular processes take a long time."

Such a recommendation assigns farm labor a bleak future, indeed. In effect, it condemns the farm workers, described as the "excluded Americans" to "limited work opportunities; low earnings; little economic security; poor health, housing and education; and often unsafe working conditions."

As one of a number of constructive proposals relating to housing, health, the employment of college students, etc., the principal recommendation made in the report is that farm labor be included under a national minimum wage. Unfortunately, I must contend that such a recommendation is quite unrealistic, since its passage would constitute a political miracle, universally opposed as it is by management and by those states whose agriculture competes with that of California. Furthermore, such a proposal, even if realized, would be practically useless as far as California farm labor is concerned, since the inclusion of agricultural labor under the national minimum wage would be at such a level that it would provide slight benefit to California labor, covering none except the lowest paid. In the absence of a state minimum wage or even a recommendation favorable to one, it can hardly be put forward as a serious approach to the problem of improving farm labor's position in California. Though a positive recommendation, it has little more to offer than the suggestion that in the long run things will be better.

The fundamental point is that the recommendation of the report leave farm workers none of those elements of strength and power in the market which would permit an improvement in wages or in employee benefits, either in the short run or the long run. In fact, not only are the workers dismissed with the recommendation that they not be allowed to engage in collective bargaining and the state not adopt a minimum wage, but the recommendation that the bracero program be continued indefinitely even further weakens the position of California agricultural labor. The reason for this is obvious, since in the normal course of events, when not protected by a minimum wage or by collective bargaining, labor, in negotiating with management, is provided some protection through the operation of the law of supply and demand. If management, for example, does not offer reasonable pay or satisfactory working conditions, the labor supply will eventually fail to provide workers. The natural reaction of management, as a consequence, will be to offer better working conditions or an improvement in wages; in effect strengthening the demand for labor. Improvement in working conditions, wage increases, and so forth will come about, therefore, in response to labor shortages—shortages induced by the inadequacy of the labor situation and by the structure of the market. The possibility of employing braceros, a so-called supplemental labor force, naturally, has an effect adverse to the interest of labor, since it produces a serious modification of the labor market, adding a supply element which strengthens the position of management. It operates by supplying an increment of labor in the labor market at the precise moment when unsatisfactory working conditions have brought the supply of labor in jeopardy and have placed the workers in a relatively advantageous bargaining position. Is it any wonder, therefore, that in certain areas in particular, present working conditions on California farms attract only marginal workers, those unqualified for employment in industry and other segments of the economy. Braceros protect management, and management, therefore, is not required or forced to rationalize its employment of labor. Supply and demand cease to operate in the normal sense and the market fails to act as a determinant of the price for labor. An equivalent situation from the farmers' point-of-view would be to have a "supplemental" supply of Mexican strawberries hanging over each day's strawberry market. Perhaps, in the long run, there might not be any but supplemental Mexican strawberries in the market.

Despite my objections to the report, I regard it as a very thorough and searching study. The hearings were carefully conducted, and they produced a vast amount of accurate information about agricultural production in California. It is very evident that the farmers of California are at a disadvantage in competition with cheap farm labor from other food and fiber producing states and, also, because of the special market conditions which prevail in the farm segment of the economy with industry. However, the basic economic facts of the situation impel me to the conclusion that the implementation of the report, while leaving labor in an adverse position, powerless to improve itself, would place farm management under no inducement to organize more rationally the employment of domestic farm labor.

Such a pessimistic view is unacceptable to me, and I believe that the State Department of Agriculture, the Department of Employment, and farm management can, if they act with determination, improve the farm labor situation in California. By the nature of things, this will mean a more rational employment of labor in the agricultural economy. The possibility of moving beneficially in this direction has been demonstrated by the success experienced during 1961 and 1962, in improving and increasing employment on the farms of high school and college students.

It is my conviction that of all the groups which testified before the committee, the testimony of the California Grange showed the most perceptive insight into the problems of agricultural labor. Its recommendations are deserving of serious consideration by the State, by farm management, and also by organized labor. I do not think that they should be dismissed lightly, since I believe them to indicate the direction we must follow if there is to be an improvement in farm labor conditions without detrimental effects to agriculture, an industry which is basic to the prosperity of our State and absolutely essential to the well-being of its citizens.

(Signed) ALBERT S. RODDA

CHAPTER II

UNEMPLOYMENT INSURANCE FOR FARM WORKERS

The immediate goal of unemployment insurance is that of providing protection to ordinarily employed persons from the hardships caused by involuntary periods of unemployment and income loss. Financed by a tax on employers' payrolls, the program makes cash payments to unemployed eligible workers in order to replace enough of the lost wages so workers need not turn to other public programs for financial aid. By accumulating reserve funds during low unemployment periods, unemployment insurance spreads the costs created by high periods of unemployment.

Another objective of unemployment insurance is the maintenance of consumer purchasing power, on which industrial production plans are largely based, in times of community, area, and even nationwide economic adversity. Ideally, then, a brake is applied on downturns in business activity, employment is stabilized, and the deflationary momentum created by recessions feeding on themselves is lessened.

Unemployment insurance also is credited with creating a stable work force, facilitating efficient organization of the labor market, preserving individual skills and earning power, and assisting in the rapid reemployment of unemployed workers.[7]

EXCLUSION OF HIRED FARM WORKERS

When Congress passed the Social Security Act (P.L. 74-271) in 1935, that body intentionally excluded farm workers from the provisions of the act's original Titles 3 and 9 which established the Federal Unemployment Tax Act (now 26 U.S.C.A. 3301-3308) and which provided for grants to the states for the administration of unemployment compensation insurance and for advances to the states' unemployment funds (now 42 U.S.C.A. 501 *et seq.*, and 1101 *et seq.*). This exclusion was predicated on two conclusions: the vigorous opposition to inclusion by agricultural employers and, parenthetically, the farm bloc representatives in Congress, and the administrative problems that would have been created by inclusion.

> ". . . (B)oth eligibility for benefits and size of benefits were to depend upon previous earn-

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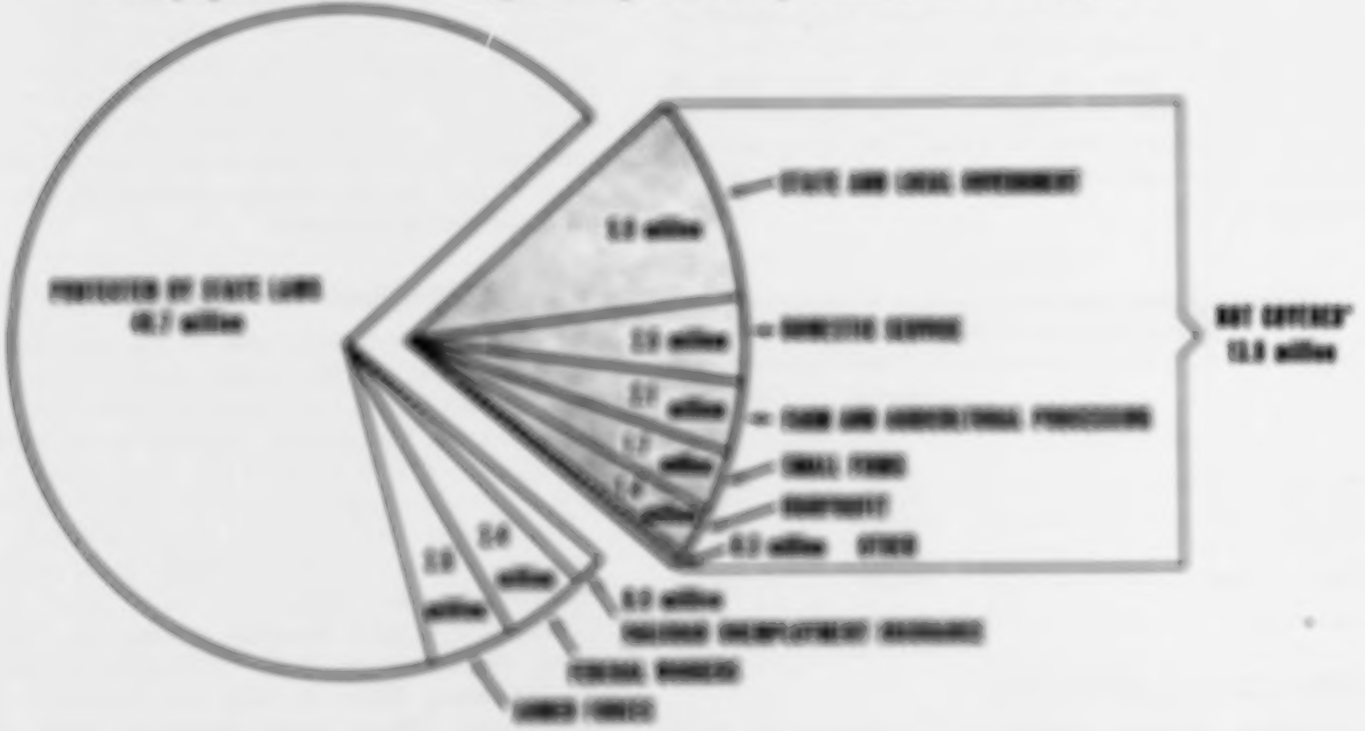
[7] *Unemployment Insurance: Purpose and Principles*, Bureau of Employment Security, U.S. Department of Labor, Washington, D.C., 1955, pp. 7-8.

FIGURE 2

Unemployment Insurance Coverage of Wage and Salary Workers, United States, 1960



¹Excludes clergymen and members of religious orders, student nurses, internes and students employed in schools where enrolled.

SOURCE: U.S. Department of Labor, "Unemployment Insurance: State Laws and Experience," BES No. U-193, April, 1961, Chart 1.

ings and it was therefore necessary to obtain a complete and accurate record of each employee's earnings. While many industrial and commercial employers were already keeping the necessary records, it was believed that farmers would find this task particularly burdensome."[10]

"The farmer, the casual, and the domestic were not taxed in this bill because we knew that the House and Senate would not keep it in the bill."[11]

In the United States in 1960, it was estimated that 2,100,000 farm and farm-product-processing employees were not covered by unemployment insurance. This number represents about 15 percent of the wage and salary workers in the country who were not covered by U.I. and constitutes the third largest group of noncovered employees (see Figure 2). Farm workers in California are estimated, in Figure 3, to comprise the second largest noncovered employee group, numbering 290,000, approximately one-quarter of all noncovered workers in the State.

PROBLEMS OF UNEMPLOYMENT AND UNDEREMPLOYMENT

Farm employees, statewide and nationally, represent not only a significant proportion of all workers exempted from the protection of unemployment insurance, but also comprise a group which experiences a very high rate of unemployment and underemployment. According to the United States Department of Labor, approximately 300,000 of this country's hired farm workers were out of work for more than 15 weeks during 1960 and that ". . . the rate and duration of unemployment were greater for farm workers than for wage and salary workers in nonagricultural industries."[12]

FIGURE 3

Unemployment Insurance Coverage of Wage and Salary Workers, California, 1961 [1]

	Number not covered	Percent not covered
State and local government	[illegible]	[illegible]
Farm workers	290,000	[illegible]
Domestic service	[illegible]	[illegible]
Nonprofit	[illegible]	[illegible]
Total not covered	[illegible]	100%
Total covered	[illegible]	----

[1] Based on average annual employment estimates.
SOURCE: California Department of Employment.

There is no comparable up-to-date data revealing the unemployment rate of California agricultural employees. The most recent study of the subject was made in 1950-51 by the State Department of Employment.[13] This report estimated that unemployment among both seasonal and permanent hired farm workers was extremely high. Eighty-eight percent of all seasonal workers reported some periods of seeking work unsuccessfully during the 12-month period studied. The average unemployment period was 16 weeks, and nearly 70 percent of the permanent hired workers reported being unemployed for an average period of 12 weeks.

Several factors suggest that unemployment among agricultural employees is much more severe and poses many more problems currently in California than in most other parts of the country.

The ratio of hired farm workers to family labor in this State is twice that of the nation's (see Figure 27, p. 50, Part I).

The bulk of the demand for hired farm labor in California is generated by short-term harvesting activities rather than the relatively more stable cultural operations (see Figure 30 (A), p. 51, Part I).

Larger farms and greater crop specialization have resulted in extraordinary demands for hired seasonal farm labor (see Figure 29, p. 52, and p. 13, Part I).

These major factors, together with other less direct causes, have created a continuing need in California for a large, mobile force of seasonal farm wageworkers. Data and opinion collected and analyzed by the committee concerning the workers' wages (both annual earnings and hourly, daily, and monthly rates of pay), and the operation of the California farm labor market strongly indicates the lack of economic protection for these workers from the certain privations caused by the equally predictable cycles of involuntary unemployment.

SOLUTIONS TO UNEMPLOYMENT

The only alternatives open to the seasonal agricultural employee and his family when he cannot obtain employment are to seek work in other nearby industries, live off his savings, migrate to an area where the supply of and demand for farm labor are more in his favor, or apply for public welfare benefits.

The lack of education and vocational skills of most of these workers initially limits their employment potential in other industries (see p. 76 *et seq.*, Part I). They are, quite literally, among the "last to be hired, the first to be fired." Secondly, in many areas of California there is only one industry—that of agriculture. Where other industries exist, they are generally farm-oriented (*e.g.*, food and fiber processing and shipping, container manufacturing) and experience seasonal labor demands that coincide with the growing and harvesting of the crops themselves.

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[10] Greenfield, Margaret, *Unemployment Insurance for Farm Workers*, University of California, Bureau of Public Administration, 1959 Legislative Problems: No. 4, Berkeley, Mar. 1959, p. 7.

[11] *Congressional Record*, April 17, 1935, 79: 5992-93.

[12] Goldberg, Hon. Arthur J., Secretary of Labor, U.S. Department of Labor, in testimony to the Subcommittee on Migratory Labor of the U.S. Senate Committee on Labor and Public Welfare, *Hearings on S. 1129*, Vol. 2, Washington, D.C., 1961, p. 609.

[13] *Estimated Costs of Covering Agricultural Employment Under the California Unemployment Insurance Act*, Research and Statistics Section, California Department of Employment, mimeographed, Report 401 No. 22, Sacramento, April 25, 1952.

The income potential of the seasonally hired farm family is drastically limited, probably ranging on an average from $1,500 to $2,500 a year (see pp. 158 *et seq.*, Part I). This obviously curtails the effectiveness of the "earn now and spend later" alternative.

Many seasonal farm workers and their families do migrate in search of work (see pp. 81 *et seq.*, and Appendix G, Figure 3, p. 271, Part I). Such migrations are extravagant, however, in both economic and social costs. Earnings of migrant farm workers generally are below those maintained by nonmigrants. In 1960, the average United States migrant earned $1,016; the nonmigrant, $1,142.[14] Likewise, the migrant spends fewer days actually working, 131 in 1957, than the nonmigrant worker, 147.[15] Furthermore, migrants have travel costs in connection with their work and are less likely to receive perquisites than nonmigratory workers. In social terms, the loss of family roots in the home community for a substantial portion of the year, withdrawal of children from school, loss of residence in terms of health and welfare services, and the lack of adequate on-the-road housing, health, and educational facilities all take a toll that is probably greater than that suffered economically.

General assistance (often called general relief) is the fourth alternative for seasonal farm laborers when they are unemployed.[16] This too, however, is a resource which is full of practical limitations. Many counties require one year's county residence before they will grant G.A. benefits. Likewise, it is common for sharp limits to be placed upon the length of time able-bodied, unemployed men and their families can receive aid. Finally, the amount of the general assistance grant in California's 48 nonurban counties[17] is usually inadequate to meet even the most basic needs of the aid recipients. In April, 1962, general assistance was granted to 4,011 family cases and 3,066 one-person cases in those 48 counties. The average aid payment for that month was $40.32 per family and $39.44 per one-person case. Only 77 percent of the aid, additionally, was in cash, the balance was given in-kind.[18]

These are the alternatives, then, available to the seasonal farm laborer who yearly faces the problem of having ". . . no certainty how many days he will be able to find work. In many cases, at the start of the working day, he has no certainty how many hours he will be kept on the job. And, finally, no matter how fortunate a worker may be, and no matter how regular his employment during the bulk of the year, there are times when weather or other conditions make work impossible, and at these times a farm worker has no buffers of the types which society has seen fit to create for the protection of other workers. His income drops to nothing" (Krainock, Louis F., Director of Public Information, Agricultural Workers Organizing Committee, AFL-CIO, p. 36, Nov. 17, 1959).

It is alleged that farm workers would not be alone in deriving benefits from unemployment insurance, but that the whole agricultural labor market and every user of seasonal workers would profit. It is clearly evident that one of the major factors which has helped create and hold together a stable, reliable, and skilled work force in other seasonal industries in California (*e.g.*, construction, lumbering, longshoring, food processing) has been unemployment insurance. If this is the case in industries which are at least as seasonal and casual as agriculture, it is argued, it would also hold true in the farm labor market.

PROBLEMS IN EXTENSION OF UNEMPLOYMENT INSURANCE

On the other hand, there are several serious problems which must be examined and solved before unemployment insurance could be extended satisfactorily to include farm wageworkers.

Because there is no contemporary information on the rates of agricultural unemployment in California, there is no basis upon which to validly estimate the costs of extending unemployment insurance. Additionally, no formal studies of this subject are underway or anticipated by the California Department of Employment, the prime source of data that would be vital to such an endeavor, or, for that matter, by any other agency or institution known by the committee.

One feasible source of insight into farm unemployment rates may be the operation of the Unemployment Compensation Disability Insurance (D.I.) Program which was extended to cover agricultural employees during the 1961 Session of the Legislature.[19] Because of the limited experience under D.I., however, no correlations have been made regarding the duration of farm unemployment and amounts of farm earnings. It is estimated that at least one full year's experience in paying agricultural claims will be necessary before these data can be developed. Figure 4 shows the claims-paid experience for D.I. claimants employed in agriculture at the onset of their disability. Caution must be used in automatically using these data, as part or all of the base period wages of these claimants may have been earned in nonagricultural employment.

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[14] Goldberg, *op. cit.*, p. 107.

[15] *Farm Labor Fact Book*, U.S. Department of Labor, Washington, D.C., 1959, p. [illegible].

[16] Unless the worker is 65 years of age or older, blind, permanently disabled, or leaves and does not support his family, he (or his family in the last case) cannot meet the most fundamental requirements of the public welfare programs other than general assistance. For a more detailed consideration see Chapter VI, page [illegible], Part I.

[17] Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara Counties are regarded here as urban counties and are excluded from consideration.

[18] *Public Welfare in California, Statistical Summary* [illegible], April, 1962, Bureau of Research and Statistics, California Department of Social Welfare, Sacramento, Table [illegible].

[19] A.B. [illegible], Chapter [illegible], 1961, provided for the inclusion of agricultural employees' earnings on October 1, 1961, and for the consideration of agricultural earnings in processing disability insurance claims on May 1, 1962.

Since the Unemployment Insurance Program is established on an actuarial basis, reason dictates that the risk factor of any proposed extension be as accurately estimated as possible prior to liberalization. This is doubly necessary in an area such as farm labor where the bulk of the proposed beneficiaries are seasonally employed.

FIGURE 4

Disability Insurance Claims Paid to Agricultural Workers, California by Area, 1962 [1]

Month	Total claims	Coastal area	Interior area	Southern area	Out of state
May	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
June	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
July	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
August	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[1] Agricultural employment as defined in Sections [illegible] and [illegible], Unemployment Insurance Code. [illegible] of claims paid to claimants employed in agriculture at the onset of disability. Part or all of the base period wages may have been earned in nonagricultural employment.

SOURCE: Report [illegible], Division of Research and Statistics, California Department of Employment.

Another widely recognized difficulty in the agricultural extension of unemployment insurance is that of the administrative problems relating to determination of employment relationship, recordkeeping, wage reporting, and tax collecting.

> "The administrative problems entailed in the extension of unemployment insurance to farm workers are admittedly formidable." (Smith, *op. cit.*, p. 427, Jan. 28, 1960.)

> "Recordkeeping and individual wage reporting are basic to the present unemployment insurance system. In agriculture, however, there is a noticeable lack of continuous relationship between employer and seasonal worker. For some crops and in some areas many farm employers do not know the number of workers who harvest their crops, have no record of their names, the length of their employment, or their earnings. The employment relationship is further complicated by use of farm labor contractors, of various types of crew leaders, and of family crews. Determination of the covered employer would thus be difficult, and enforcement of reporting requirements and tax collections might frequently prove troublesome.
>
> "Unemployment insurance provides cash benefits to eligible workers who are involuntarily unemployed and are available for and willing to work. In agriculture, many persons hire out for work only during certain times of the year. At other times they may be self-employed on their own farms or in their own businesses, or they may be working without pay on their parents' farms, or they may be sharecroppers or tenants on other farms. Determination of an individual's availability for work or his justification for quitting a job or refusing a work offer would thus be quite complicated. Questions might arise as to suitability of work offered, not only because the skills utilized on farms are so varied but because employment may be located at great distances." [29]

It is argued that the administrative problems cited above are passé and that not only have seasonal, casual industries, in applying U.I. to their employees, met these difficulties successfully, but California agricultural employers have themselves demonstrated adequate ability to cope with similar intricacies.

> "Formidable as the administrative problems may be, we are certain they are not insoluble. For one thing, we would point to the lessons which the Mexican National program teaches. Although this program has had many deeply damaging effects, it has proved useful in one respect: it has demonstrated beyond cavil that agricultural employers can, if they wish, maintain adequate records of employees, hours, gross earnings, deductions, and other pertinent information." (Smith, *op. cit.*, p. 427, Jan. 28, 1960.)

Actually, individual farmers in California have taken virtually no administrative responsibility in the Mexican National program. Of a total of 11,629 farmers using braceros in this State in 1959, only 44 contracted directly with the workers. The remaining 11,585—or 99.6 percent of the total users—were members of the 54 farm labor co-operatives or associations which assume such duties as recordkeeping, negotiations, administration, payment of costs for contracting and transportation, and, occasionally, field supervision (see p. 110, Part I).[30] Although the average farm employer is much more familiar with administrative and management techniques today than he was in the 1930's, the problems recapped by Miss Greenfield are still very real and present serious obstacles to the application of U.I. to the farm work force.

In fact, some of these issues which raise theoretical problems in the agricultural field are provoking continuing practical dilemmas as U.I. is applied in other industries. Chief among these are problems arising over claimants' willingness to work and the suitability of work offered.

> "Public concern that some individuals will seek benefits to which they are not entitled legally is realistic, and legislative provisions and administrative procedures must be devised to minimize possible abuse." [31]

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[29] Greenfield, *op. cit.*, pp. 1-2.

[30] Annual Report, Region X, Agricultural Foreign Labor Section of the Bureau of Employment Security, U.S. Department of Labor, 1959, Table 1.

[31] Haber, William and Wilbur J. Cohen, *Social Security: Programs, Problems, and Policies*, Richard D. Irwin, Inc., Homewood, Illinois, 1960, p. 201.

> ''Management wants the responsible, steady employee (particularly the family head) to get substantial benefits when he is out of work and looking for a job. But management would like to see the available funds conserved by eliminating from the system the people who have quit voluntarily, who are not looking for jobs, who refuse suitable work when offered, who are retired and drawing pensions, who are on vacations, or who for a variety of reasons are not really available for work, even though they may satisfy the technical requirements of the law on the basis of the inadequate tests that can be applied by a public employment service office.
>
> ''These types of cases are not necessarily fraudulent. They are expensive and they deplete the funds that should be available for payments to people who are involuntarily unemployed.''[28]

The last, but hardly the least, of the deterrents to extending unemployment insurance to California's farm workers is the added costs it would impose on farm employers. The only estimate of this cost received by the committee was that prepared by the Agricultural Workers Organizing Committee.

> ''To date there has been only one serious effort to calculate the costs of extending unemployment insurance to California's agricultural workers. In October, 1952, the Division of Research and Statistics of the State Department of Employment completed a study based on the work histories and earnings of 5,909 California farm laborers (see Footnote 13). The division estimated that if farm workers had been covered by the Unemployment Insurance Act at that time, they would have been eligible for benefits totalling 15.23 percent of taxable agricultural wages. The division estimated that by the year 1960, benefits to farm workers would have dropped below 12 percent of taxable wages, through 'anticipated trends toward a better organized agricultural labor force and toward increased mechanization of agriculture.'
>
> ''It is extremely important to note that at the time this study was made, California's Unemployment Insurance Act required only $300 in earnings during a 'base period' in order for a claimant to gain eligibility. On this basis, 65.2 percent of the State's hired farm workers would have been eligible for unemployment insurance, assuming they were able to meet other requirements. Since 1953, however, the act has been amended to require $600 in covered earnings for eligibility. If this test had been applied at the time the Department of Employment conducted its study, only 50.5 percent of the State's farm workers would have been eligible. . . .
>
> ''The question remains, of course, 'How much will it cost, and who will pay?' Farm wages in California currently total about $440,000,000 per year. Assuming that, at the outset, the Department of Employment's estimates of several years ago still hold good, theoretical unemployment insurance benefits for farm laborers would approximate $53,000,000 a year. The experience of other industries demonstrates that only a minority of the workers technically eligible for unemployment insurance benefits actually file claims for such benefits. For example, a Department of Employment survey of canning, dried fruit packing, and lumbering industries found only 26 percent to 33 percent of the male employees entitled to unemployment insurance payments during the preceding year had drawn any benefits. These are industries which have been covered for many years; employees are presumably relatively familiar with the benefits to which they are entitled. Agricultural workers, being unfamiliar with the niceties of unemployment insurance and other social legislation, might reasonably be expected to avail themselves of their benefits even less frequently. But, in order to place our estimates on the conservative side, let us assume that 50 percent of the payable benefits under unemployment insurance program for agriculture were actually paid. The total cost, given the other conditions we have already outlined, would be approximately $27,000,000, or 6 percent of taxable farm wages. This percentage is less than that already experienced by other seasonal industries in the State.'' (Smith, *op. cit.*, pp. 429-30, Jan. 28, 1960.)

Even if it is assumed that this analogous estimate is valid, an increased production expense of $27,000,000 a year would be heaped upon the farmer. And he is a party that can ill afford increased costs from any source. Not only do California farmers already face a major economic disadvantage to farmers in other states due to their greater utilization of, and relatively higher wage rates paid to, hired labor (see p. 44 *et seq.*, Part I), but this State's farmers (as are the nation's) are inexorably caught up in a ''price-cost squeeze'' with a resultant 25 percent drop in California's net farm income since 1951 (see p. 33 *et seq.*, Part I).

Because of these unresolved problems, it appears that the coverage of hired farm workers by unemployment insurance is not desirable at this juncture without further study. However, such a study should be initiated at once in view of the demonstrated need for improvement in and protection and stabilization of the agricultural work force, both seasonal and permanent.

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[28] Compton, R.L., *Congressional Digest*, Vol. 38, December, 1958, p. 297.

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CHAPTER III

MEDICAL CARE

One of the three basic problems facing the individuals and families who earn their livelihood as seasonal hired farm workers is that of securing minimally adequate medical care. The causal relationship of the health needs of this group to the two other basic problems—economic insecurity and inadequate housing—is direct and definitive. And as in the latter two areas, even long-term recognition of the health problem has not lead to significant remediation.

> ". . . in the review of the impressive volume of reports which have appeared in different places on this health subject over the last many years, we were impressed with the similarity and consistency of the findings of conditions and recommendations which had been noted. Frankly we were amazed and puzzled by the almost consistent apparent lack, in most areas, of action taken on the strikingly similar recommendations to improve the conditions." (Jessup, R. Bruce, M.D., Assistant Professor of Pediatrics, School of Medicine, Stanford University, representing the Task Force on Health Services for Seasonal Agricultural Workers, California Department of Public Health, p. 174, Dec. 16, 1960.)

> ". . . we look at the problem (of the health of seasonal farm workers and their families) as evidence of about a half-century lag in the application of existing knowledge to a sizeable population. . . ."[24]

CURRENT PROBLEMS

Both economic instability and poor housing in themselves create poor health conditions and deter adequate medical care for seasonal farm workers. Additional factors which have contributed to the health problems of this group over the years are:

1. **Cultural factors.** The lack of knowledge of health and disease due to cultural background and limited education affect the utilization of health and medical facilities. While much is known about these particular barriers to good health, more must be learned in order to do an effective job of handling the problems they present.

2. **Early diagnosis and treatment.** Medical care is usually sought by farm workers only in emergency situations. Less severe ailments, which can have damaging consequences, are more or less ignored. Often when emergency care is rendered, adequate followup is not possible.

3. **Availability and accessibility of facilities.** The location of hospitals, doctors' offices, county health departments, and other health and medical facilities are generally distant from the areas where seasonal farm employees work and live. There has been little decentralization of these services. Financial and residential requirements make county public facilities unavailable to many of those who need them most. The time of day at which most health services are offered seldom coincide with the time farm families can use them. Public transportation is virtually nonexistent in outlying rural areas, and usually the use of a family's car for such trips entails a loss of work.

4. **Cost of medical care.** Seasonal farm workers rarely carry health or accident insurance and must, therefore, meet the entire expense of each separate treatment as well as the costs of transportation and medicine.

5. **Lack of co-ordination of existing services.** Many of the people in the seasonal farm labor force are known to a variety of public and private agencies in the community and represent "multiproblem" families. There is, however, a lack of consistent, coordinated planning by these agencies which results both in service gaps and in unnecessary duplication of effort.[25]

The California Health Survey, conducted by the State Department of Public Health in 1954-55, showed that, ". . . agricultural workers have low levels of hospital admissions and medically attended conditions as well as higher levels of infective and parasitic diseases, circulatory diseases, and accidents. Their stays in hospitals are long, both as a group and per admission. The unfavorable immunization status of farm workers' children in regard to smallpox, diphtheria, whooping cough, tetanus, and poliomyelitis was also demonstrated."[26]

Complicating the prompt resolutions of these problems has been the serious state of the overall health and medical care situation in many rural areas.

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[24] Shafer, James K., M.D., Chief, Division of General Health Services, Public Health Service, U.S. Department of Health, Education, and Welfare, in speech to the Conference on Families Who Move With the Crops, San Jose, California, October 24, 1960, p. 12.

[25] See: *Health Conditions and Services for Domestic Agricultural Workers and Their Families in California*, California State Department of Public Health, Berkeley, Oct. 1960; and *Agricultural Labor in the San Joaquin Valley*, Final Report and Recommendations of the Governor's Committee to Survey the Agricultural Labor Resources of the San Joaquin Valley, Sacramento, March 1951, pp. 46 and 226 *et seq.*

[26] *California Health*, Vol. 18, No. 15, February 1, 1961, p. 116.

> "It is true today rural areas in California have relatively fewer physicians, nurses, paramedical personnel, fewer specialists, fewer available hospital beds, fewer accredited hospitals, less adequately staffed health departments, more serious housing and sanitation problems, and poorer health than have our California metropolitan areas."[27]

SOURCES OF HEALTH CARE

There are four major sources of health and medical care in California: private practitioners, social welfare programs, county hospitals, and public health departments.

PRIVATE PRACTITIONERS

Seasonal farm workers can be classed almost automatically as "medically indigent." With average yearly family incomes in the neighborhood of $2,000, the ability to pay for private medical care is severely limited (see p. 158 *et seq.*, Part I). Historically, the private medical professions in California have independently rendered care to many needy persons free of charge or at reduced rates. Although it is impossible to approximate the scope or depth of this charity, it has been in most fields ancillary to various public-supported programs which have developed.[28]

SOCIAL WELFARE PROGRAMS

Social welfare programs are maintained by both private and public agencies in the State. It is impossible to assess the direct medical services rendered by private social service or health associations, although it has been opined that research or indirect service is the primary interest in the latter category.[29] Persons who receive public assistance under the categorical aid programs (*i.e.*, Old Age Security, Aid to the Needy Blind, Aid to the Totally Disabled, and Aid to Needy Children) receive outpatient physician's services, drugs, and limited dental care in quantities that vary according to the program. The aged medically indigent in need of more than 30 days' hospitalization or nursing home care can, furthermore, qualify for the Medical Assistance for the Aged program. However, these programs are of little help to seasonal farm workers. In the "adult" programs (OAS, ANB, ATD, and MAA) the age and disability requirements preclude active farm employees. The ANC program, on the other hand, is open only to those families deprived of parental support because of death, disability, and desertion.

COUNTY HOSPITALS

The only medical care, then, available to most farm workers and their families through public welfare programs is that offered by the general assistance program. Unlike the categorical aids, where standards of eligibility and assistance are established at the state and federal levels, general assistance is a county-controlled program with a minimum of uniformity among the 58 local jurisdictions. State law does require that counties provide aid to the medically indigent who are lawful residents (W. & I. C. Sec. 2500). Legal residence is defined as three years in the State and one year in the county where application is made (W. & I. C. Secs. 2555 and 2556).

The most comprehensive and current cataloging of medical and health services available to the medically indigent, including general assistance recipients, was published by the Bureau of Public Administration, University of California, in 1959. Figures 5, 6, and 7, taken from this study, reveal the kinds and types of services and facilities available by county.

Summarily, 47 of California's 58 counties maintained hospitals which furnished medical, surgical, and, in some cases, convalescent care. The 11 counties without public hospitals purchased medical and surgical services from district or private hospitals.[30]

Outpatient clinics were maintained at 43 of the 47 county hospitals. Only 11 of these clinics, however, provided services outside the central hospital area. Nineteen counties made provision for office or clinic services through county physicians. Included among these were 10 out of the 11 counties without public hospitals and two of the four where the county hospital had no outpatient clinic. Twenty-eight counties, on the other hand, made no provisions of any type for home calls by physicians.[31]

Drugs necessary for the treatment of hospitalized patients were ususally furnished in all county hospitals. The availability of drugs for outpatients, similarly, was good at county clinics—41 out of the 43. County physicians in seven counties also supplied drugs.[32]

Dental care was available in 55 counties, although in approximately 25 it was chiefly available only on an emergency basis. Six counties provided no eye care, 15 made no provisions for eyeglasses, and 14 counties provided no appliances.[33]

California courts have held that county hospitals should care for any person, regardless of his place of residence, who needs immediate medical attention due to accident, sudden sickness, or injury.[34]

Additionally, the State requires that (1) counties satisfy the medical needs of categorical aid recipients

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[27] Jessup, R. Bruce, M.D., in speech to the Rural Health Conference, American Medical Association, Sacramento, California, October 19, 1962, p. 2.

[28] See: *The Medical Care Program for Public Assistance Recipients*, report of the California Senate Interim Committee on Social Welfare, Sacramento, 1959, p. 16.

[29] Bornet, Vaughn Davis, *California Social Welfare*, Prentice-Hall, Inc., Englewood Cliffs, N.J., 1956, pp. 319 and 323.

[30] Greenfeld, Margaret, *Medical Care for Welfare Recipients—California*, Bureau of Public Administration, University of California, Berkeley, April, 1959, pp. 47-8.

[31] *Ibid.*, pp. 46-7.

[32] *Ibid.*, pp. 49-50.

[33] *Ibid.*, pp. 50-4.

[34] *Goodall* v. *Brite*, 11 Cal. App. 2d 540.

FIGURE 5

California County Hospitals: * Inpatient Services, August 1957

County	Hospitalization						Diagnostic			Convalescent		Rehabilitation therapy		
	Chronic	Medical	Obstetric	Pediatric	Psychiatric	Surgical	X-ray	Laboratory	Other	Hospital	Nursing home	Physical	Occupational	Other
Alameda¹	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Amador	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Butte	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Colusa	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Contra Costa	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Fresno	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Glenn	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Humboldt	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Imperial	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Kern	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Kings	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Los Angeles General	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Harbor General	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
John Wesley	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Long Beach	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Rancho Los Amigos	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Madera	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mendocino	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Merced	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Modoc	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mono	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Monterey	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Nevada	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Orange	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Placer	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Plumas	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Riverside	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Sacramento	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Benito	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Bernardino	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Diego	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Francisco	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Joaquin	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Luis Obispo	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
San Mateo	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Santa Barbara	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Santa Clara	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Santa Cruz	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Shasta	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Siskiyou	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Solano	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Sonoma	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Stanislaus	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Sutter	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Tehama	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Trinity	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Tulare	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Tuolumne	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Ventura	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Yolo	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Yuba	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

FOOTNOTES

* Excludes nursing and convalescent homes and special tuberculosis hospitals and sanatoriums.

[1] Includes Highland and Fairmont.
[2] Fairmont only.
[3] Through contract arrangements.
[4] Through county welfare department.
[5] Speech.
[6] Psychological evaluation.
[7] Short hold.
[8] Brain and cardiac cases to University of California or Stanford hospitals; others at hospital.
[9] Anesthesiology.
[10] Tuberculosis only.
[11] Geriatric only.
[12] Newborn only.
[13] Obstetrics only.
[14] Polio and orthopedistrics only.
[15] Chemistry research laboratory in connection with respiratory evaluations.
[16] Complete post-polio rehabilitation.
[17] Purchased as needed.
[18] Minor tests.

SOURCE: Greenfield, op. cit., see Footnote 30, Table 5, pp. 145-7.

[19] Except mental illness.
[20] Diagnostic services and limited therapy.
[21] Radioisotope laboratory.
[22] Occupational therapy only at Edgemoor Geriatric Hospital and in tuberculosis facility.
[23] Separate county institution.
[24] Only if no other plan possible.
[25] Pulmonary function laboratory.
[26] Clinical physiology, including cardiac catheterization.
[27] Electroencephalograph.
[28] Electrocardiograph.
[29] Not segregated.
[30] Special cases only.
[31] Diathermy.
[32] Limited.
[33] Short-term.
[34] Long-term.
[35] Referred when no longer in need of hospital.
[36] Complete rehabilitation program at Crystal Springs.

[illegible]

California County Hospitals * Outpatient Services, August 1957

[illegible]

TABLE [illegible]

California County Agencies¹ Supplying Selected Health Services, August 1937

(Continued on following page)

[illegible]

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regardless of the county of residence of such recipients if they are otherwise eligible (W. & I. C. Sec. [illegible]); and (3) county hospitals admit any expectant, medically indigent mother, with her county of residence responsible for her cost of care and maintenance (W. & I. C. Sec. [illegible]).

Except in these State-specified conditions, noncounty residents are refused admission in [illegible] county hospitals. The remaining counties indicated a somewhat more flexible admission policy regarding nonresidents, chiefly when it is infeasible to return the patient to his legal residence during the eligibility investigation period, or when there are reciprocal agreements between counties.[illegible]

Other eligibility conditions also are imposed by the counties which determine the admissibility of persons in need of medical care, such as limits on income and personal and real property, or signing agreements to repay, waive the statute of limitations, and liens on real or personal property. Figure 4 indicates these financial limits and specifies which agency makes the eligibility determination.

The costs of health and medical services offered by county hospitals is borne entirely by county government. In the [illegible] fiscal year the counties spent $[illegible] for the operation of their hospital facilities according to the California Taxpayers Association. This expense represents the second largest county fiscal responsibility, exceeded only by that caused by the Old Age Security program. According to a recent study of local government expenditures in California, the deflated per capita county cost of hospitals and medical care was $[illegible] in 1937. Of even greater significance is the fact that hospital and medical comprise one of the fastest growing county expenses. The adjusted per capita figures show a 1957 cost of $[illegible], a deflated increase in 20 years of $[illegible] per capita which was exceeded only by the increase experienced in OAS ($[illegible]), ANC ($[illegible]), and miscellaneous governmental functions ($[illegible]). By comparison, the adjusted changes of county expenses between 1937 and 1957 were +$[illegible] for protection to persons and property, +$[illegible] probation, and +$[illegible] health and sanitation, and −$[illegible] for highways and bridges.[illegible]

PUBLIC HEALTH DEPARTMENTS

The fourth major source in California of health and medical services for farm workers is the public health departments. All of the State's 58 counties offer the same basic type of public health service, as required by statute (H. & S. C. Secs. [illegible]). Initially, these functions were principally preventive and largely dedicated to the control of communicable diseases. Personal health services were limited generally to persons suffering from tuberculosis and venereal diseases. Contemporarily, however, the focus of services has enlarged considerably in many jurisdictions so that today "... immunization, prenatal, well-child, dental, and orthopedic clinics may be provided. Case finding for cancer, diabetes, and heart diseases, mental health clinics, and diagnostic laboratory services are often included."[illegible]

Although the intensity and scope of public health services vary widely, the following are generally offered by most counties to all persons:

1. Communicable disease control, including immunization clinics and VD and TB screening, diagnosis, and followup treatment;
2. Prenatal and well-child clinics or conferences;
3. Health education; and
4. Environmental sanitation, inspection of water supplies, food handling, and sewage disposal at farm labor camps.[illegible]

[illegible] Campbell, Medical Care for Welfare Recipients—California, op. cit., p. [illegible].

[illegible]

[illegible] Ibid., p. [illegible].

[illegible]

[illegible]

California County Hospitals: Agency Determining Financial Eligibility, Maximum Allowable Resources, and Other Conditions of Admission, August 1957

County	Determination by		Maximum allowable resources					Other conditions of admission					
									[illegible]		[illegible]		[illegible]
	Hospital	Welfare department	Income	Personal property	Real property	Insurance	Other	[illegible]	Hospital	Other	[illegible]	[illegible]	
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
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Footnotes on following page.

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A few county health departments extend dental and optical services as indicated in Figure 7, page 27. Additional information on personal health services rendered in each of the county and city health departments is furnished in Figure 8, page 31.

The provision of these services, together with other activities of California's local public health agencies during the 1960-61 fiscal year, cost $59,210,193 according to the California Taxpayers Association.

SUMMARY

The existing health problems of seasonal farm workers, their lack of ability to meet these problems themselves, and the inadequacy of public agencies in supplying personal services where they are needed, led the Interdepartmental Task Force on Health Services for Seasonal Agricultural Workers to summarize:

> "... (W)e were shocked at the health conditions we encountered this summer in California camps. We found ample evidence this summer to support the statement that in the areas visited ... seasonal agricultural workers have more medically uncorrected conditions, lower utilization of preventive medical care and higher morbidity and mortality rates than any other social-economic group in our California population. We know, at least, that no group in California has greater medical needs. ... These are not complex medical needs in that we have known for years how to immunize kids, we have known how to take care and examine mothers when they're pregnant and reduce prematurity which is very expensive. This is a basic floor of known medical service which these people aren't getting because of distance, lack of education, attitude, and many complicating factors. ..." (Hearing, op. cit., pp. 170 and 171, Dec. 10, 1960.))

SOLUTIONS RECOMMENDED

For the last 50 years, roughly, the health and medical care needs of California's seasonal farm workers has been studied and restudied. Recommendations on top of recommendations have been issued. Yet with only four recent exceptions, little has been done to effect long-range and permanent solutions.

The similarity in a half-century of recommendations on this subject is emphasized by Figure 10, page 33, which concisely recapitulates the findings of these major health studies since 1915.

FRESNO CLINICS

One of the notable exceptions to the lack of action in improving health services and medical care for seasonal agricultural employees is the West Side Clinics which were initiated in Fresno County in 1951. Operating in isolated areas some 75 miles from the City of Fresno, the clinics do not require county residence as an eligibility requirement and are conducted at night so that laborers will not lose working time when they use them.

Although the clinics are conducted nominally as outpatient facilities of the county hospital, they represent, in fact, a partnership among the local medical societies, farmers, public health and welfare departments, and citizens' groups, as well as the hospital itself. Volunteer private physicians from the Fresno County Medical Society join in the staffing with the resident physicians from the county hospital. Nurses on loan from the county public health agency assist at the clinics and do follow-up as well as educational and preventative health work. Growers, who have consistently supported the clinics, provide facilities in which the clinics are held. Other groups have provided initial financing (the clinics are now a regularly financed county service), community leadership, and other key functions.

During the first three months of operation in 1951, only 60 persons utilized the West Side Clinics. In 1959, during the same three months, 1,200 persons came for services, and during the entire year of 1959 over 6,000 visits were registered.

CALIFORNIA SEASONAL AND MIGRANT HEALTH PROGRAM

The second area of recent action to better meet the health needs of farm workers was the passage of S.B.

FIGURE 4

California Public Health Departments: Personal Health Services,[1] August 1957

[illegible]

Footnotes on following page.

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593 (Ch. 807) by the 1961 Session of the California Legislature. This legislation aims at strengthening local community services by authorizing the State Department of Public Health to maintain health programs for seasonal agricultural and migratory workers, and to contract and co-operate with local governmental agencies and voluntary nonprofit organizations to develop local programs for such workers and their families (see *Appendix* [illegible], Exhibit [illegible], page [illegible]). Budget items of $[illegible] for 1961-62 and $[illegible] for 1962-63 have also been passed by the Legislature to provide for the implementation of the Seasonal and Migrant Health program.

Generally, this program has as its goals the provision of (1) technical and financial ($[illegible] per annum) assistance to local programs, (2) research, and (3) co-ordinative activities of the State and local governmental levels in order to help local community health agencies strengthen services to migrant and seasonal farm workers and their families. Five specific objectives are listed:

1. Technical assistance to counties that express interest in planning and developing facilities and services, or in studying the adequacy of present programs.
2. Early development of policies and procedures for use of State funds by local agencies.
3. Study of the development and extension of health insurance for farm workers' families.
4. Study of matters pertaining to eligibility restrictions on health services for farm workers.
5. Co-ordination of intra- and interstate efforts to meet the health needs of farm workers who move from county to county, or state to state.[30]

The activities sponsored under S.B. 593 during the last two summers are summarized below.

A. DIRECT CONTRIBUTIONS TO COUNTY AND COMMUNITY AGENCIES

BUTTE

1961—Application granted for $[illegible] to finance field clinic at Gridley Labor Camp, to be manned by a private practitioner and a public health nurse one day a week. Because of delay in clearance of funds and staffing problems, it was decided to delay opening of the clinic until the Spring of 1962.

1962—Allocated $[illegible] to provide for the operation of the field [illegible] Camp Clinic for provision of outpatient services particularly to wives and children of farm workers in Butte and [illegible] County. The clinic operates with a private physician, a nurse, and volunteers in the Gridley Labor Camp during the summer and fall.

COLUSA

1961—$[illegible] for a four-month project to undertake study and extension of services to farm workers. One nurse and student taken on as additional staff. "Mobile immunization clinic" activated following survey.

1962—Allocated $[illegible] to again add staff, this time a registered nurse, an assistant sanitarian, and a part-time social worker, for three months to take immunizations to mobile clinics in the camps and fields, assist the growers in improving environmental sanitation in their camps, and increase farm workers' utilization of available health resources.

CONTRA COSTA

1962—Allocated $[illegible] to assist in meeting the expenses of maintenance, food control, water and garbage services, and chemical toilet rental for a temporary emergency camp area to be supervised by the health department.

FRESNO

1961—The project which was approved for $[illegible] has been delayed in anticipation of further and more adequate financing under U.S. Senate Bill [illegible], and in anticipation of activation of plans for prepayment pilot programs to be sponsored by California Farm Bureau Federation, California Physicians' Service and California Medical Association of Fresno County.

KERN

1961—$[illegible] Health education application to provide for training and utilization of services of "health aides" approved. Allocation of $[illegible] additional funds (from Fresno County's unused funds) approved to allow extension of Kern County program until January 1, 1962.

1962—Allocated $[illegible] to provide for continuation of their community health aid program in four areas of Kern County: [illegible], [illegible], [illegible], and [illegible]. Kern County also was allocated $[illegible] to provide for a [illegible]-week study by a Stanford anthropologist, a UCLA medi-

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[30] Memo, [illegible] 1962, to Local Health Officers, from Malcolm H. Merrill, M.D., Director, State Department of Public Health.

[illegible]

Summary of Health Recommendations Made by Various California Groups

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NAPA

1962—Allocated $2,500 to provide for an assistant sanitarian, a public health nurse, and a part-time social worker for the two peak months during grapes.

SAN BERNARDINO

1962—Allocated $1,500 to make possible a study by a medical student of health conditions and needs of farm workers in San Bernardino County. The study will be carried on with health department staff and a consultant from the Department of Preventive Medicine at Loma Linda Medical School.

SAN JOAQUIN

1962—Allocated $5,000 to provide for a half-time health educator to work all year in farm workers' health, being particularly concerned with obtaining prenatal care for expectant mothers, and in encouraging utilization of prenatal and immunization services among the domestic farm workers' families.

SANTA BARBARA

1962—Allocated $900 for a three-month program in providing tuberculosis diagnostic and followup clinics, and antituberculosis drugs to farm workers' families in the Guadalupe and Lompoc areas.

SANTA CRUZ AND MONTEREY

1961—Joint program to provide additional public health nursing in each health department, with extended clinic services and a new clinic in the Pajaro Valley activated in midsummer. An additional night immunization clinic at Greenfield, and child health conferences at Greenfield and Soledad have been made possible by this farm workers' program. It is reported that the Pajaro Valley clinic is "overburdened"; that 100 to 150 immunizations are being given at each of the South County Immunization Clinics, and 20 OB's have been arranged at the Soledad Prenatal Clinic.

1962—(See Monterey County)

Allocated $3,000 to continue outpatient services for three months at the Pajaro Elementary School Night Clinic.

SUTTER-YUBA

1961—A five-day-a-week clinic at the Richland Labor Camp was opened under a $15,200 grant on July 1, and closed on September 26.

1962—Allocated $5,400 to cover the utilization of a special team of public health workers; sanitarian helper, nurse, health educator, additional laboratory staff to visit farm labor camps, assess health conditions, work toward improvement of environmental sanitation conditions, and utilization of existing health resources in the area.

TULARE

1961—Application for funds to finance a series of monthly decentralized clinics was approved. State funds were held up and the first clinic was held in Woodville on October 26. At the present time, one-night-a-month clinics at Woodville and Visalia have been activated; three others are planned for the winter months. Staffing is by private physicians and by house officers from the county hospital. Due to county salary restrictions, clinics are staffed by nurses outside the public health department. Part of the funds are being used to provide the services of a nutritionist from the community who has developed a program with consultation from the Bureau of Nutrition.

1962—Allocated $4,100 to provide staff for special night health clinics for seasonal farm workers and their families in four areas of the county remote from the county hospital. The clinics utilize the services of private physicians, resident physicians from the county hospital, nurses, and volunteers.

YOLO

1961—An application for funds to add a public health nurse to the county health department's staff was approved. Because of a shortage of nurses, funds were not used until August. At the present time the county is still three nurses short of a full complement of nine. The program has increased services available to farm workers although these services are, because of staff vacancies, still short.

1962—Allocated $6,500 to provide additional nursing time throughout the year to meet the health service needs of domestic farm workers' families in the county.

B. EXTENDED COUNTY PROGRAMS FINANCED LOCALLY

CONTRA COSTA

1961—With a special appropriation of $4,000, the county health department conducted a study of farm workers' health services, growers' opinions, and provided additional public health nursing and sanitarians' time in preparation for and during the apricot harvest season.

1962—Is again providing for full-time services of a sanitarian, a public health nurse, and physician's services during the two-month apricot season.

SAN BENITO

1961—Extended services were offered in new immunization clinics at night for farm workers, nurses' visits to camps, meetings with Farm Bureau representatives, distribution of directory of medical services, and additional clinics for farm workers during peak season.

1962—Will again have, in conjunction with San Benito County Farm Bureau, extended services for farm workers including immunizations, well-child, and prenatal care clinics during the short harvest season in that county.

SANTA CLARA

1961—County health department provided special child health conferences and immunization clinics in farm labor camps during the summer in collaboration with community groups.

1962—In conjunction with the Council of Churches, the public health department will conduct five special immunization clinics in Santa Clara County and will, in addition, continue a study of parasitic disease among the medically indigent group, primarily carried on among farm workers' families.

C. CONSULTATIONS

Consultations have been held with the Western Branch Office of the Public Health Association, who has staff personnel to co-ordinate and mobilize the area's interstate efforts in the field of farm workers' health, and with the staff of the U.S. Public Health Service's Migrant Health Program. Consultations have also been held with two Mexican physicians under Rosenberg Foundation grants. These experts in rural health work spent August, 1962, in Kern and Merced Counties, and in the Sacramento Valley Counties working with local health departments on the particular problems of the attitudes and special difficulties of Spanish-speaking farm workers and their families. Lastly, advice has been rendered to agencies in all of the counties listed above and to other groups concerned about this problem.

D. STUDIES

Several studies have been completed under the Seasonal and Migrant Health program's auspices and others are planned pending the availability of more funds. Two medical students conducted a six-week investigation in Merced County and their report has been widely distributed. A questionnaire, budget, and study procedure which includes physical examinations and laboratory work, have been prepared to evaluate the health needs of 100 families. A staff member was added to the personnel of the State Department of Public Health in 1962 to co-ordinate data collected from counties with State-financed extensions of their programs and material from other State, local and private agencies active in the field.

E. TECHNICAL ASSISTANCE

State Department of Public Health staff has assisted local agencies in designing, implementing, and evaluating projects by furnishing nursing, medical social work, nutrition, sanitation, and dental health consultants. The department's Bureau of Health Education has assisted by training volunteers and local staff and by preparing publications such as directories of local health services for farm workers and an educational brochure for farm workers' families. Health orientation sessions have also been furnished for the field directors and representatives of the California Migrant Ministry.[40]

In summary, although the California Seasonal and Migrant Health program has received minimal financing, it has, through public and private agencies cooperating with it, been able to make significant improvements in meeting farm workers' needs for health services and medical care.

PREPAID MEDICAL INSURANCE

One of the activities assisted by the California Seasonal and Migrant Health program, which was not cataloged above because of its great potential significance, is that of developing and testing a medical care prepayment plan for needy seasonal farm workers and their families. The California Medical Association, the two California dental associations, the California Physicians' Service insurance program, and the California Farm Bureau Federation, have been exploring for 18 months a health care insurance program on a pilot project basis to cover outpatient physician and dental services for seasonal farm employees and their families.[41] Preliminary plans call for financing by payroll contributions to be made by both growers and seasonal workers. Inpatient services, which would be outside the program's scope, would be furnished by the county hospital in the county selected for testing. Although the project is to be privately financed on a nonprofit, no-loss basis, it is probable funds will be requested from the Federal Government by the State program in order to augment initial working capital. Even though the project is still in a tentative stage, it represents one of the most hopeful developments in securing adequate health services for seasonal workers.

PUBLIC LAW 87-692

The fourth, and last, recent exception to a general lack of action in implementing long-range and permanent solutions to the health problems of seasonal farm workers was the passage by the 87th Congress, and approval by the President, of Public Law 87-692. The enactment, which appears as Exhibit 3, Appendix B, page 90, authorizes the U.S. Public Health Service to: (1) encourage and co-operate in health service programs for domestic farm workers and their families, and (2) to make money grants to public and nonprofit agencies for establishing and maintaining clinics and other special health projects to improve services for hired farm employees and their families. The legislation also permits grants to be made for the purpose of training health-service personnel.

The 87th Congress adjourned, unfortunately, before the appropriation bill containing funds for P.L. 87-692 had been passed. Thus, although the measure is impotent at this time, it does represent the first significant effort by the Congress to positively meet the problems of seasonal farm workers.

In the preliminary planning of California's Seasonal and Migrant Health program, projected requests for P.L. 87-692 money have ranged from $250,000 to $750,000. These funds would be added to the regular State General Fund appropriations in order to (1) increase the allotments made to local health agencies, (2) add consulting staff to the State office, (3) undertake research and pilot projects such as the proposed prepaid medical insurance program, and (4) local staff training programs.

RECOMMENDATIONS

1. That as soon as possible, the 88th Congress appropriate funds for the implementation of P.L. 87-692.

2. That appropriate agencies of the State of California utilize such funds to improve the health services and medical care available to seasonal agricultural workers and their families.

3. That the State Legislature continue to appropriate financial support for the California Seasonal and Migrant Health program.

4. That the means used for improvements of health services and medical care include, if necessary, State and federal funds to assist the proposed prepaid health insurance project.

5. That the counties, with the assistance of the California Seasonal and Migrant Health program, evaluate the medical and financial effects of eliminating State and county residence requirements for seasonal farm workers in county hospitals.

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[40] The data above was supplied principally by reports from the State Department of Public Health, including Memo, July 24, 1962, to Local Health Officers, from Hamlet C. Pulley, M.D., Assistant Director, and *1961 Activities in California Directed Toward the Improvement of Health Among Domestic Seasonal Agricultural Workers and Their Families*, 1961.

[41] Other farm employee medical insurance programs, such as the Associated Farmers', require a minimum of 30 days of employment. Furthermore, existing plans are usually too expensive for this group.

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CHAPTER IV

AGRICULTURAL SAFETY[42]

FARM WORKING CONDITIONS

Agricultural work is not only one of the most dangerous occupations in California, but it is becoming increasingly hazardous. Figure 11 shows that in 1961, there were 56.5 disabling injuries per 1,000 workers in agriculture while the all-industrial average was only 31.9. The rate of injuries in agriculture was the third highest among the major industries; it was, in fact, exceeded only by the injury rates in construction and mining. In spite of a drop in the all-industry average injury rate between 1957 and 1961, the rate in agriculture has increased. Whereas in 1957, the farm rate was 54 percent higher than the all-industrial, it was 77 percent greater in 1961.

Figure 12 shows the numbers of disabling injuries and fatalities in California agriculture together with the injury rate. Since 1950, the rate and the number of injuries have shown a fairly consistent upward trend. As the number of farm work fatalities has fluctuated widely and available data goes back only six years, it is impossible to determine any overall consistent pattern in this area.

FIGURE 11

Industrial Injury Rate, California, 1957 and 1961

Industry	Disabling injuries per 1,000 workers	
	1961	1957
All industries combined	31.9	32.4
Construction	81.2	76.9
Mineral extraction	68.9	69.6
AGRICULTURE	56.5	50.0
Transportation, communication, utilities	38.8	35.6
State and local government	34.1	33.9
Manufacturing	29.7	29.9
Trade	27.1	27.6
Service	17.9	20.2
Finance, insurance, real estate	8.5	8.2

SOURCE: "Work Injuries in California Agriculture," 1957 and 1961, Division of Labor Statistics and Research, California Department of Industrial Relations.

The instruments of farm work, injuries in 1961 comprised the following: vehicles, 2,136; working surfaces, 2,040; hand tools, 1,930; containers, 1,773; ladders, 1,449; machines, 1,194; animals and insects, 1,026; chemicals and hot or injurious substances, 966; trees, logs or lumber, 777; miscellaneous agents, 3,433 for a total of 16,724 lost-time injuries. Fatalities on the job were caused by tractor accidents, 19; automobile and truck accidents, 15; heart strain, 8; electrocution, 5; plane accidents, 5; animals, 3; drowning, 3; explosions, 3; sunstroke, 3; falls, 2; and miscellaneous, 3—a total of 73 deaths.

FIGURE 12

Number of Agricultural Injuries and Injury Rates, 1950-1961 and Number of Agricultural Fatalities, 1956-1961, California

Year	Number of disabling injuries	Disabling injuries per 1,000 workers	Number of fatalities
1950	13,877	54.0	--
1951	14,744	54.1	--
1952	14,786	52.6	--
1953	14,188	47.9	--
1954	14,830	48.3	--
1955	16,170	49.5	--
1956	16,672	51.7	67
1957	16,165	50.0	79
1958	15,841	50.4	101
1959	17,883	56.6	70
1960	17,121	56.4	80
1961	16,724	56.5	73

SOURCE: "Work Injuries in California Agriculture," 1957, 1960, and 1961, Division of Labor Statistics and Research, California Department of Industrial Relations.

MINORS

Fewer young farm workers were injured in 1961 than in any previous year on record. Four hundred and twenty-six minors under 18 years of age were

FIGURE 13

Number and Percent of Agricultural Injuries to Minors California, 1950-1961

Year	Total agriculture	Under 18 years	Injuries to minors as a percentage of all agricultural injuries
1950	13,877	485	3.5
1951	14,744	523	3.5
1952	14,786	525	3.6
1953	14,188	464	3.3
1954	14,830	440	3.0
1955	16,170	501	3.1
1956	16,672	499	3.0
1957	16,165	512	3.2
1958	15,841	434	2.7
1959	17,883	565	3.2
1960	17,121	539	3.1
1961	16,724	426	2.5

SOURCE: "Work Injuries in California Agriculture," 1961, Division of Labor Statistics and Research, California Department of Industrial Relations.

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[42] Data on agricultural injuries and deaths include both farm and agricultural service accidents (*e.g.*, cotton ginning and compressing, spraying and pest control, animal husbandry).

FIGURE 11

Number of Agricultural Injuries to Minors, by Age, California, 1950-1961

Year	Total under 18 years	Under 16 years	16-17 years
1950	485	128	357
1951	523	134	389
1952	525	145	380
1953	464	133	331
1954	440	95	345
1955	501	140	361
1956	499	132	367
1957	512	127	385
1958	434	92	342
1959	565	117	448
1960	539	117	422
1961	426	83	343

SOURCE: "Work Injuries in California Agriculture," 1961, Division of Labor Statistics and Research, California Department of Industrial Relations.

disabled that year, as indicated in Figure 13. This comprised 2.5 percent of all agricultural injuries. In 1950, 485 youngsters were injured, 3.5 percent of the farm work force injuries. Figure 14 shows the farm injuries to minors by age groups. There were both numerically and relatively fewer children under 16 years of age injured in 1961—19.5 percent of all injuries to children on farms—than in any previous year.

The leading agents of farm injury to minors in 1961 were: vehicles (including tractors and trucks), 80; hand tools, 55; containers, 48; working surfaces, 47; chemicals and hot or injurious substances, 37; ladders, 36; and machines, 30. About one-third of the 83 children under 16 years disabled in agricultural accidents during 1961, according to the Division of Labor Statistics and Research, *were employed in apparent violation* of one or more of the State Labor Code provisions governing minimum age, hours of work, or hazardous occupations.[43]

Four minors were killed while performing farm work in 1961. Two of these fatal accidents involved tractors; one, overexposure to a toxic plant dusting compound; and one, a crop-dusting plane accident. Only two youngsters were killed in 1959 and two in 1960.

AGRICULTURAL SAFETY ORDER

More than half of the agricultural fatalities in 1961 in California involved vehicles or machinery. These same agents caused nearly one-fifth of the farm injuries during the same year. The increasing mechanization of this State's agricultural operations has made what were generally dangerous working conditions even more hazardous. Although farm operations have been covered by the general industrial safety orders of the Division of Industrial Safety for many years, the need for more specific regulations applying solely to farming and farm services became obvious. Consequently the division, through its rule-making body, the Industrial Safety Board, promulgated a safety order (8 Cal. Adm. Code 3298 *et seq.*) applying only to agricultural operations. These regulations, which became effective in January, 1962, appear as Exhibit 4, Appendix B, page 90, of this report.

The Agricultural Operations Safety Order explicitly covers tractors; other field equipment; horizontal rotary spreaders; corn pickers; beet trucks; power-driven cutters, choppers, and grinders; conveyors and elevators; vegetable-trimming saws; water hazards; ladders; sheepshearing; and the formulation and application of injurious materials.

FARM TRANSPORTATION ACCIDENTS

Additionally between 1952 and 1961, 112 farm workers were killed and 2,575 injured while being transported to and from their jobs. The problems of insuring the safe conveyance of agricultural employees, which has been under study for a number of years, have been emphasized from time to time by major accidents in which many workers were killed or injured. Such tragedies occured: in 1958, when 14 workers were killed and many others hospitalized as the result of a flash fire on the truck carrying them; in 1959, when 26 workers were injured, two fatally, when the brakes on the truck carrying them to the job failed and the truck struck two cars and overturned; in 1961, when one laborer was killed and 11 others hospitalized when their truck ran into a divider strip and overturned. Upon investigation, of this 1961 accident, seven violations of the safety orders or Vehicle Code were found—the truck was overloaded, had defective brakes, was operated at excessive speed, lacked a second exit, the seats were not attached to the truck bed, the exhaust system was defective, and the truck was not equipped with flares or a fire extinguisher.

Fortunately, the number of large multi-injury accidents has been declining. In 1958, two accidents injured more than 20 workers each. In 1959, there were nine accidents which injured 10 or more farm laborers. Only one accident in 1960 injured 10 or more workers, and in 1961, two farm transportation accidents each caused 10 or more injuries.

Figure 15 shows that the total numbers of farm transportation accidents, fatal, and nonfatal injuries have sharply declined between 1952 and 1961. There were fewer deaths in 1961—three—than in any previous year on record although the number of nonfatal injuries was up—174—from the record low established in 1960—130.

A large part of the explanation behind the increasing safety with which farm employees are moved to and from their work is government's entrance into the field with both statutory and regulatory safety orders.

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[43] *Work Injuries in California Agriculture, 1961,* Division of Labor Statistics and Research, California Department of Industrial Relations, San Francisco, June 1962, p. 33. Violations of federal child labor laws, State school attendance laws, or Industrial Welfare orders covering agriculture are not included. For these and the Labor Code provisions, see pp. 186 *et seq.*, Part I.

The Governments of Mexico and the United States adopted transportation regulations which became effective in 1956, and must be adhered to by participants in the Mexican National program. These regulations, Joint Operating Instructions 1 and 4, appearing on pages 294 and 296 as Exhibit 9, Appendix G, Part I, govern long-distance transportation of workers to and from the reception centers by both bus and truck, and the short-haul carrying of braceros to and from work sites.

The Interstate Commerce Commission, in 1957, promulgated regulations governing the interstate transportation of migrant farm workers (49 C.F.R. 198 *et seq.*). These rules, given as Exhibit 5, Appendix B, page 92, govern qualifications of drivers, the driving of vehicles, equipment necessary for safe operations, hours of service of drivers, the inspection and maintenance of vehicles, and compliance with orders to repair.

The California Legislature, in 1959, also moved to meet the problems of unsafe vehicles and unqualified drivers used in moving farm workers. A series of amendments to the California Vehicle Code pertaining to farm labor transportation was enacted into law and control the licensing of operators, speed limits, equipment and specifications, safety measures for tools and inflammables, passenger accommodations, and safety equipment. These statutes appear as Exhibit 6, Appendix B, page 95.

Following the enactment of these laws, the Division of Industrial Safety updated employee transportation regulations it had been enforcing since 1955. The *Safety Order for Transportation of Employees and Materials* (8 Cal. Adm. Code 3412), Exhibit 7, Appendix B, page 96, is not limited solely to farm workers, but embraces all employee transportation. Specific rules relate to the licensing of drivers, as well as vehicle equipment, load limits, passenger accommodations, and safety devices required on all vehicles transporting employees.

FIGURE 19

Number of Farm Transportation Accidents and Number of Fatally and Non-fatally Injured Workers, California, 1952-1961

Year	Number of accidents	Number of workers injured	
		Fatal	Nonfatal
1952	[illegible]	12	[illegible]
1953	[illegible]	20	[illegible]
1954	[illegible]	6	[illegible]
1955	[illegible]	17	[illegible]
1956	[illegible]	7	[illegible]
1957	[illegible]	11	[illegible]
1958	[illegible]	16	[illegible]
1959	[illegible]	8	[illegible]
1960	[illegible]	4	[illegible]
1961	[illegible]	9	[illegible]

SOURCE: "Work Injuries in California Agriculture," 1961, Division of Labor Statistics and Research, California Department of Industrial Relations.

SUMMARY

Improving the safety of California farm operations has been an obstinate problem. The overall statistics show that it has become an increasing rather than a decreasing problem. Every indication of the future, moreover, seems to emphasize that greater difficulty will be experienced in efforts to make the farm a safer place to work.

Principal responsibility for farm safety rests, of course, upon the farm operators. It is their duty to provide adequate training and supervision of all farm workers, including their seasonal help. They are the parties accountable for keeping farm equipment in a safe operating condition. And, they are liable to the governmental agencies empowered to help achieve greater farm safety. Most individual farmers and farm groups seem to be quite conscious of these responsibilities and are actively working to make employment in their fields less hazardous. A redoubling of these efforts, however, would appear necessary if the upward trends in the overall farm injury rate is to be reversed.

The farmer's efforts to improve the working conditions for his employees, moreover, has a direct bearing to his costs of operation. As the work injury rate in agriculture has increased, the farmer's cost for workmen's compensation insurance has risen. California is one of the nine states in the United States which requires workmen's compensation coverage for farm workers in the same manner as other workers.[24] Therefore, the effort, time, and money expended by farm employers on safety can often be offset by reductions in his insurance rates.

The farm employee himself also has a great responsibility in the composite attempts to improve safety on farms. Many accidents would be avoided if workers followed instructions and used their heads. Workers should also call potentially hazardous conditions and equipment to the attention of their employers and refuse to work in those situations if they are not remedied.

Farm labor contractors play an important role in farm safety, or the lack of it. With the great dependence of California farmers upon these contractors to provide both transportation and field supervision (see Figure 85, page 179, Part I), potentiality for farm safety decreases. Generally contractors are not highly regarded for their loyalty to and protection of either farm owner or farm worker. The license granted them by the State Division of Labor Law Enforcement is no guarantee of their reliability, competence, or experience, and nearly one-half of the persons acting as farm labor contractors are not even licensed (see p. 177 *et seq.*, Part I). Licensing, of course, does require that the contractor carry workmen's compensation insurance for his employees, liability insurance when he furnishes transportation, and a $1,000 surety bond. Thus licensing does tend to automatically provide both worker and farmer some protection and furnish a small incentive that the contractor will be safety conscious. It is again obvious, however, that the farmer's or the farm labor association's assumption of responsibilities that have been relinquished to the contractor would be the best solution.

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[24] The other states are Alaska, Connecticut, Hawaii, Massachusetts, Ohio, Vermont, Wisconsin, and the Commonwealth of Puerto Rico. *Status of Agricultural Workers Under State and Federal Labor Laws*, Bureau of Labor Standards, U.S. Department of Labor, February 1964, Washington, D.C., p. 5.

Although the prime governmental authority for enforcing farm safety is the Division of Industrial Safety, State Department of Industrial Relations, a multitude of local, State and federal agencies are directly or indirectly concerned with agricultural working conditions. It is obvious that close teamwork between these various agencies is vital and that their relationship to farm employers and employees should be based on both a cooperative and educational approach, on the one hand, and a firm but understanding enforcement policy on the other.

Lastly, it is the responsibility of the State Legislature to provide adequate staff and facilities to the State agencies responsible for enforcing the laws and the regulations relating to farm safety.

CHAPTER V

HOUSING

Another of the most fundamental problems of the seasonally hired agricultural worker in California is housing. Although his is by no means the only group within society today faced with this problem,[8] the temporary farm employee is unique in that his lack of adequate shelter is not solely his concern, but is a concern and a problem, as well, of his employer.

HISTORY OF EMPLOYEE HOUSING

Traditionally, it has been common in many American industries to provide employee housing where job locations are substantially removed from the worker's usual place of residence. Railroads for many years have been providing their construction gangs and maintenance crews with both temporary and permanent housing facilities for single men and for families. Employer-provided camps and, in some instances, towns are common in the lumbering industry. Construction concerns have created entire cities to temporarily house their workers at remote dam, road and industrial sites. And company towns, for over a century, have dotted the coal mining sections of the East.

It is not surprising, then, that agricultural employers have equipped their workers with dwellings. Rather than being exceptional, agriculture has merely matched what many other industries have done historically.

Employer-furnished housing in agriculture has ranged from the "hired man's house" for the year-round hired helper and his family to the bunkhouse for permanent single hands to the labor camp where both permanent and seasonal families and single men live. Because of the long precedent that has been established in agriculture, the farmer today frequently provides housing facilities when they are needed by either his permanent or his seasonal workers (just as the employers in the above mentioned industries have traditionally furnished their employees housing).

MANDATORY PROVISIONS OF HOUSING

This frequent practice in agriculture is legally required only in two specific instances. Under the provisions of Article 5 of the Standard Work Contract, the employer of Mexican National farm workers must "... furnish the Mexican worker, upon the Mexican worker's arrival at the place of employment and throughout his entire period of employment, without cost to such Mexican worker, hygienic lodgings, adequate to the climatic conditions of the area of employment and not inferior to those of the average type which are generally furnished to domestic agricultural workers in such area" (see Appendix G, Exhibit 4, p. 59, Part I).

Additionally, federal regulations adopted by the U.S. Secretary of Labor governing the interstate recruitment of domestic farm workers (i.e., the annual worker program) provide that no order for recruitment is to be placed for interstate clearance unless the State Employment Service "... has ascertained that housing and facilities (1) are available; (2) are hygienic and adequate to the climatic conditions of the area of employment; (3) are reasonably calculated to accommodate available domestic agricultural workers; and (4) conform to the requirements of the applicable state, county, or local housing and sanitary codes or, in the absence of such applicable codes, have been determined by the state agency to be such as will not endanger the lives, health or safety of the workers."[9]

GOVERNMENTAL REGULATION OF EMPLOYEE HOUSING

California was one of the first states to regulate by statute employee housing. The original legislation, enacted in 1915, was triggered by the loathsome living conditions of seasonal farm workers on a large hops ranch near Wheatland, in the Sacramento Valley, which belonged to Richard Durst.

> "Twenty-eight hundred pickers were camped on a treeless hill which was part of the Durst ranch, the largest single employer of agricultural labor in the State. Some were in tents, some in topless squares of sacking or with piles of straw. Eight small toilets had been erected and four days use had made them revoltingly filthy. No toilets had been allotted to women. There was no organization for sanitation, no garbage disposal. The temperature during the week of the riot had remained near 105 degrees and though the wells were a mile from where the men, women, and children were picking, and their bags could not be

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[8] See, Abrams, Charles, Forbidden Neighbors, Harper's, New York, 1955. [illegible]

[9] 20 C.F.R. 602.9(c).

> left for fear of theft of the hops, no water was sent into the fields. A lemonade wagon appeared at the end of the week, later found to be a concession granted to a cousin of the ranch owner. Local Wheatland stores were forbidden to send delivery wagons to the campgrounds. It developed in the State investigation that the owner of the ranch received half of the net profit earned by an alleged independent grocery store which had been granted the 'grocery concession' and was located in the center of the campground.''[18]

A mass meeting held in the camp to protest these conditions degenerated into a full-blown riot when the Yuba County Sheriff and a number of deputies arrived and attempted to arrest an I.W.W. organizer who, at the time, was leading the assemblage in a ''Wobbly'' song. The result—the Yuba County District Attorney, a deputy sheriff and two workers, one a mere boy, killed; the sheriff kicked senseless; scores of other participants seriously injured.

It is reported that Durst was neither more mercenary nor more inhumane than his contemporaries.[19] For years he had used seasonal labor to harvest his crops without giving much thought to their living conditions. Yet it was the unfortunate riot on his ranch which led directly to the creation of the Commission of Immigration and Housing later that year by the State Legislature.[20] Initially, the commission was authorized to inspect farm labor camps, as well as other employee housing, and require employers to meet defined standards of comfort, decency, and sanitation.

From this beginning, the authority of the State to inspect and enforce standards for employee housing has grown; and although this is a multi-industrial activity, nearly 95 percent of the camps involved are agricultural (Nelson, Lowell, Chief, Division of Housing, State Department of Industrial Relations, p. 350, Nov. 17, 1959).

Chiefly responsible for the registration, inspection, and approval of farm employee housing in California today is the Division of Housing, State Department of Industrial Relations. The Agricultural Foreign Labor Section of the Bureau of Employment Security, U.S. Department of Labor is principally responsible for assuring that housing for Mexican National farm workers imported under P.L. 78 (7 U.S.C.A. 1461) meets prescribed conditions.

STATE DIVISION OF HOUSING[21]

The State Division of Housing enforces the provisions of State law relating to labor camps (Lab.C. Sec. 2410 et seq.) and the rules and regulations it adopts to implement, interpret, and make specific these statutory provisions (8 Cal. Adm. C. 16910 et seq.). These statutory and administrative requirements are given in Appendix B, Exhibit 6, page 97, and, briefly, provide for: definition of terms; annual labor camp registration; standards for sleeping places including condition, cubic space per occupant, windows and screening, and beds; standards regarding mess halls, bathing and toilet facilities, garbage disposal, waste drainage, and drinking water; general responsibility of camp operator or owner; and division authority.

BUREAU OF EMPLOYMENT SECURITY

The Bureau of Employment Security, U.S. Department of Labor, through its Agricultural Foreign Labor Service insures that employers of Mexican National farm workers (braceros) comply with the housing requirements specified by Joint Operating Standard No. 6 of the Migrant Labor Agreement (see Exhibit 5, Appendix B, p. 109, Part I). These regulations are broken into two divisions, one applicable to housing for six or more Mexican workers, the other, housing for less than six. Provisions govern the steps a prospective employer must take before receiving authorization for braceros and the minimum standards the workers' housing must meet, including the living and sleeping quarters, cooking and eating facilities, sanitary facilities, lighting, laundry, and general standards.

TYPES OF FARM LABOR HOUSING

There are six principal types of housing facilities used by the seasonal hired farm workers in California.[22]

1. **Bracero Camps**—Although some of the so-called ''bracero camps'' are on occasion used for single domestic workers, most of their utilization is dedicated to Mexican Nationals. Approximately 3,000 of the State's 5,100 labor camps of record are used for housing braceros. As of January 1, 1960, the State Division of Housing reports that there were registered facilities for 170,075 ''singles'' and the total registered and unregistered ''single'' facilities probably approximate 200,000. These camps are inspected by both the Bureau of Employment Security and the State Division of Housing. Because of the severe limitations in the number of D.H.'s compliance staff, however, the State agency makes about 20 percent of the routine inspections and reinspections (Nelson, op. cit., p. 350, Nov. 17, 1959, and Figure 27, p. 65, Part I). These camps are operated either by the farmers themselves, farm labor associations (only for braceros), farm labor

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[18] Ibid.; Carleton, H., The Casual Laborer and Other Essays. Harcourt, Brace and Howe, New York, 1920, pp. 17 [illegible]

[19] [illegible]

[20] Stat. 1913, [illegible]

[21] The Division of Housing [illegible]

[22] Because of the concentration on seasonal farm labor [illegible] permanent workers.

contractors, and, again in the case of Mexican workers, subcontractors hired by the labor associations. There is no data available at this time as to what extent each of these types of operations is active.

4. **Family Camps.**—Housing for families is seldom found in the camps or single-men camps. Facilities for families on record with the State on January 1, [illegible], totaled [illegible]. Estimates as to the actual number of accommodations range in vicinity of [illegible]. These quarters are furnished by farmers, farm labor contractors, and, in some instances, by local public housing authorities (see below). These units are often lived in more or less permanently, and come within the jurisdiction of the State Division of Housing.

5. **Farm Labor Centers**[illegible]—Eleven of these farm labor housing facilities originated in [illegible], under the Resettlement Administration and, in [illegible], were transferred to the authority of the Farm Security Administration. Seven more camps were begun during World War II as emergency rubber project camps. Between [illegible] and [illegible], these facilities were relinquished to local housing authorities. Of the [illegible] accommodations in the [illegible] centers, [illegible] are for families. Thus, the farm labor centers provide nearly one-fifth of the total facilities in California specifically for farm labor families. Many of the families who live in the centers, often permanently, are not employed in agriculture however. In some instances these centers have served as low-income housing in the town in which they are located. The centers are, nevertheless, subject to the employee housing provisions of State statutes and regulations as enforced by the Division of Housing.

6. **Private Dwelling in Cities and Towns.**—An unknown number of seasonal farm workers and their families in California live in houses they themselves own or are buying and in rented houses in the cities and towns of urban and rural California. These houses do not, of course, come within the definition of "labor camp" or "employee housing" and are not under the jurisdiction of the Division of Housing. Usually, however, local zoning ordinances, building codes, and public health standards apply.

7. **Private Dwellings in Rural Villages.**—Again, an unestimated number of temporary farm laborers and their families live in owned or rented houses in or on the outskirts of the rural villages that dot the California landscape. Free from the minimum standards enforced by the Division of Housing and usually not regulated by local building codes, these settlements are known as "rural slums."

8. **[illegible]**—Most of the single domestic farm workers in the State, usually men, live in skid-rows which exist in virtually every large and small city. "Hotels," flop houses, and missions are the usual quarters. Some skid-row residents are permanent. Many, however, drift from facility to facility, city to city. These housing facilities, at least in theory if not in practice, are usually subject to local building codes, zoning ordinances, and public health regulations.

FARM LABOR HOUSING PROBLEMS

The most immediate problem discovered in the area of seasonal farm labor housing is the lack of information about the subject. Everyone agrees that "there is a need for better and more housing for temporary farm workers," but no one until recently has undertaken the task of determining the extent, location, and duration of that need.

In response to a request from the State Senate, with the concurrence of the Assembly,[illegible] the State Division of Housing has begun a series of studies to meet the urgent need for knowledge in this field (see footnote [illegible]). Remedial action of either a private or governmental nature will be difficult without these facts as guides.

FARM EMPLOYER'S PROBLEMS

Some farm employers acknowledged little responsibility in providing temporary farm workers with housing.

> "Why is it up to the farmer to provide housing for the laborer with his family? [illegible] any other employer do it? [illegible] Cities have built public housing. Why is the farmer not even helped in any way with this problem, which is really a public problem, not a farm problem?" ([illegible], farmer and owner, [illegible] Company, [illegible] County, p. [illegible], Dec. [illegible], [illegible].)

It is the committee's belief that these opinions have not been answered fully as yet, but it does find that apparently most farm employers recognize the desirability and feasibility of furnishing within [illegible] their seasonally hired employees, and their families if any, at least minimum housing facilities. This practice, however, poses to the employer three [illegible] problems related to housing:

1. The farm employer's inability [illegible] to afford the capital costs in building housing adequate in numbers and in quality:

> "The question of housing, if you are to go into that for the moment, is difficult because the

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[illegible] From [illegible] Labor [illegible] Housing Study, [illegible] Farm Labor [illegible], [illegible] Division of Housing, [illegible] Department of [illegible] Relations, [illegible], San Francisco.

[illegible] Senate Concurrent Resolution No. [illegible], Chapter [illegible].

California code today, if you stick to it strictly, the square footages for each human being that is going to live in that house, you can't come out with housing for under $5,000 a unit. I require, for instance, 20 grape pickers for 1 month when I harvest my table grapes. In addition to that I have five year-round employees that I house. If I had to put 20 families to pick those grapes, if I had to build 20 units at $5,000 a unit, that is $100,000 capitalization on a 40-acre vineyard. How many can you get? No bank would loan you that." (Tout, Leland J., farmer and General Manager, Coachella Valley Farmers' Association, Riverside County, p. 96, Jan. 13, 1960.)

"We have found it impossible to tie up a considerable amount of capital in the construction of new homes and still maintain normal ranch operations. . . . I have talked with prefabricated housing men in the Bay Area and also in Los Angeles and we haven't come up with anything yet. My own feeling is that we can't do anything less than $8,000. We have some big families and you are going to have to have room." (Bartindale, Roger K., Manager, Industrial Relations and Personnel, Giffen Ranch, Inc., Fresno County, pp. 308 and 309, Jan. 28, 1960.)

5. The farm employer's difficulty in maintaining existing housing in terms both of cost and of the misuse of it by some domestic workers:

"About housing, I'd like to say that when housing is given, people don't take as good care of it as when it belongs to them or they have some responsibility in keeping it up. There's a camp behind where I live and the cabins get very cold in winter. I suggested to one person that she put some linoleum down on the floor to keep the cold air from coming in the cracks. She replied, 'It (the cabin) doesn't belong to me.' . . .

"It's true that some people don't know how to take care of good housing when they have it. When people have lived as if they were camping out for generations, they don't change being told a few times." (Hernandez, Mrs. Frances, farm laborer and housewife, Kings County, p. 7, Dec. 15, 1959.)

6. The lack of seasonal labor because of the lack of housing:

"Adequate housing, in camps properly equipped for serving the number of persons so housed, and within financial limits of the income of migrant farm families, is basic to maintaining the essential labor supply, county by county." (Davis, op. cit., p. 305, Jan. 28, 1960.)

"Now, one of the real problems in attracting or trying to attract migratory skilled domestic labor is housing. The lack of family-type housing and accommodations has declined rapidly in the State of California since World War II. Most of the housing is being converted to either single man's housing or torn down and not kept up, and this discourages the families that used to come to California and harvest the crops." (Tieburg, Albert B., Chief, Division of Public Employment Offices and Benefit Payments, California Department of Employment, p. 316, Nov. 17, 1959.)

FARM EMPLOYEE'S PROBLEMS

Perhaps the chief cause of housing problems for seasonal farm workers is their inability to afford even minimal rental fees or purchase prices.

"Housing for transient workers and their families is completely substandard. When they can get a job, they'll take almost any kind of housing because they know there's probably nothing else available to them. Rents are too high that people can't afford a place of their own . . . ." (Ocampo, Andres, farm laborer, Santa Clara County, p. 31, Dec. 10, 1959.)

"Let us recognize the fact that even if farm workers' wages are increased to a level sufficient to again build up a dependable domestic supply, the level of agricultural wages will still be among those received by the Nation's so-called low-income groups. This means only one thing for housing; namely, conventional methods for financing adequate housing for farm labor families are out of the question." (Henning, Walter, Research Economist, California Labor Federation, AFL-CIO, presenting prepared statement by C. J. Haggerty, Secretary-Treasurer, p. 496, Jan. 28, 1960.)

In many areas, on the other hand, housing for families simply does not exist.

"We have no housing there (Ventura County) for domestic workers." (Gonzalez, Rafael, Field Representative, United Packinghouse Workers of America, AFL-CIO, Local No. 78, Ventura County, p. 336, Jan. 27, 1960.)

"Present housing facilities for the domestic worker with families are severely restricted. In many cases the housing shortage forces the domestic farm worker to quit his employment and move on in search of housing." (Rivera, Mrs. Dolores C., representing the Community Service Organication, San Joaquin County, p. 109, Dec. 18, 1960.)

"Another problem area . . . is the lack of housing or shelter facilities for migratory workers." (Tabberg, op. cit., p. 221, Nov. 17, 1959.)

Housing for migrants and their families is in short supply for several reasons. The great urge of the migrant to settle down often leads to permanent occupancy of facilities which were initially intended for seasonal, nonlocal workers.

"Less housing, inadequate as it is, is available to the migrant worker, because it has already been taken by the family who 'stays over' or the industrial worker. When a fairly adequate house is available to a family beyond the harvest season, this is often the enticement for them to try to stay over, and become a permanent resident." ([illegible], op. cit., p. 31, Dec. 12, 1960.)

Farm employers, with limited capital to invest, have generally put a much greater emphasis on providing accommodations for single persons rather than building facilities for families.

"Contributing to the problem is the fact that individual farmers often consider the costs of family housing for seasonal workers to be excessive in relation to the brief period of need. Community undertakings, although the subject of much consideration, have resulted in little material accomplishment. What new facilities have been provided in recent years have been principally to accommodate single workers." (Tabberg, op. cit., prepared material submitted, Nov. 17, 1959, see p. 221.)

Often when labor camps do not meet the prescribed standards, remodeling costs are prohibitive and they are torn down rather than repaired.

"I think it's right that the camps should come down, but something nice and decent should go up in its place. Three big camps in Corcoran came down this year. I know of people who are living worse than before because there isn't any place for them to live or they don't have the money to live in a nice place. I know of one family that can't even afford to have their electricity or gas connected; they cook over a kerosene stove and see by a kerosene light. There are many shacks which only have a screen door; in the winter they cover up the screen with a blanket or a piece of plastic." (Hernandez, op. cit., p. 7, Dec. 18, 1960.)

And even when family housing facilities exist, they are often of substandard quality.

"My family and another family lived in a storage barn provided by the farmer. It was a building about 20 feet x 60 feet. It housed 8 adults and 17 kids; all in the same room. We'd rig up a blanket for privacy." ([illegible], Leroy, farm worker, Kern County, p. 17, Dec. 12, 1960.)

"I am concerned particularly in our area with the conditions in which a lot of these people live in the towns, within city limits, or on the fringe areas of towns. They are far worse than a lot of people live in in so-called agricultural camps." ([illegible], Frank, diversified grower, [illegible] County, p. 166, Jan. 20, 1960.)

"Twenty-eight counties, about half in the State, do not have a building code, and in those that do there is, except in rare cases, an agricultural exemption." ([illegible], op. cit., p. 204, Nov. 17, 1959.)

"Housing for families has always been a problem; cabins provided have always been terribly small and inadequate, especially for a sizable family." ([illegible], op. cit., p. 31, Dec. 12, 1960.)

The housing problems of the single men are especially difficult.

"Where are the single transient farm workers to be housed during the seasonal farm work? We know that there has been a revolution in the method of recruiting farm workers in the lower San Joaquin Valley since World War II. No longer do most of the seasonal laborers live on the vast acreages which are now in production. For the most part, farm laborers are recruited in the centers of population and transported to and from the farming operations by labor contractors in large buses. It is true that some of the older ranch operations have family housing and bunkhouses for single men, but on the newer large farms, we find that only the year-round help lives on the premises; the harvesters of the crops come from the cities in buses and return there after the day's work is done. Not all of these city dwellers who work on the farms are single men, but many of them are. They are the single men who follow the harvests up and down California—men who have no 'roots' in our cities.

"In our particular area, we find that these single men congregate in our small skidrow district to catch labor buses for the fields during the early morning hours. We find that many of these now sleep in the 'jungles' in the Kern River bottom adjacent to our city. . . . The 'aristocrats,' who have a cheap auto, camp in their jalopies along highways, only to be moved on by law enforcement officers. Some try to make public parks a sleeping place.

"These lonely transient men, the ones who are willing to work and stay reasonably sober, are dumped out of labor buses in the city at night. They will go to a cheap restaurant for the evening meal, and after the repast, what will they do? What type of recreation is offered to the single men who frequent our skid row? He can go to a bar and spend his money on drink. He can walk the streets—stand in hallways. He can go to his poor room (if he has one) and read a newspaper under a weak lamp. Usually cheap hotels have little or no lobbies for tenants to sit and read or visit with other roomers. He can go to a honky-tonk type one movie on skid row, or if he likes to play pool, he can spend some time in a smoky pool hall as long as he keeps playing and spending his money. Skid row missions will let him in if he listens to religious sermons. Some cities allow transient workers to spend some time in seats of bus stations, but they are soon moved on by police. In the winter time, or in wet weather, he cannot sit on park benches in our city parks. In his usual nondescript clothing, our single skid row man would look and feel out of place in a public library. He can buy a schooner of beer and watch a 15 minute T.V. show in a bar, but unless he keeps a drink in front of him, he will soon be unwelcome. So, unless he does one of the above-mentioned past-times, he must go back to his room, if he has one, or find himself a makeshift place to sleep for the night."

([illegible], City Manager, Bakersfield, Kern County, pp. [illegible], transcript of hearing by this committee on "Problems of the Single Skid-row Transient," Stockton, California, Dec. [illegible], 1960.)

SOLUTIONS

A variety of solutions have been offered to meet the mutual problems of farm worker and farm employer in providing and securing more adequate housing. Recommendations were made that emphasis should be placed on governmental loans, insured loans, and grant programs to assist the workers in purchasing their own homes ([illegible], op. cit., p. [illegible], Dec. [illegible], 1960; [illegible], op. cit., pp. [illegible], Dec. [illegible], 1960). Suggestions have been made that the Federal Government assist individual farm employers or farm labor associations by special tax relief and loan programs to finance employee housing for families ([illegible], op. cit., pp. [illegible], Jan. [illegible], 1960; [illegible], op. cit., p. [illegible], Jan. [illegible], 1960; Wyckoff, op. cit., p. [illegible], Dec. 14, 1960). Assistance to local housing authorities and other civic groups or to grower co-operatives in financing seasonal rental facilities has been propounded ([illegible], op. cit., p. [illegible], Jan. [illegible], 1960). And the great advantages that group action has over individual attempts have been stressed ([illegible], op. cit., p. [illegible], Jan. [illegible], 1960).

It would seem particularly important that replacements for substandard housing facilities which are destroyed be provided because, otherwise, the people using such housing often end up in even worse living quarters. Studies must immediately be undertaken at both the State and national level to determine the most appropriate and feasible methods to provide substitute housing.

The continued use of grossly defective housing cannot be tolerated or condoned. However, conscious and pragmatic efforts must be made in drafting and administering seasonal employee housing standards of a minimum nature so that the already deficient supply of such facilities is not compounded by forcing the closure of usable quarters or by driving the costs of new facilities to a point beyond the farmer's ability and willingness to pay. The standards currently used, therefore, must be re-evaluated to insure an equitable balancing of the needs of both farm employer and farm employee.

All of these recommended solutions appear to be of value. However, just as one of the principal causes of quantitatively and qualitatively inadequate housing for the seasonally hired farm worker is his lack of income, the most important solution to poor housing is that of increasing the worker's ability to buy or rent shelter. The committee has already discussed the means by which this can be accomplished (pages [illegible] et seq., Part I). These include mechanization to increase worker productivity and, thereby, facilitate payment of higher wages; crop diversification to flatten labor demand peaks and extend work periods; and pooling of workers in order to maximize employment opportunity. The success of whatever else is done to alleviate the problems of insufficient and low quality housing will depend largely upon accomplishments in increasing the value of the worker's labor and the number of days he can work. In essence, other solutions are merely attending the symptoms of the problem and not the cause of the problem itself.

CHAPTER VI

EDUCATION AND PUBLIC WELFARE

For years farmers and agricultural representatives have voiced their belief that many persons who work seasonally on California farms are not a qualified part of the farm labor force. Additionally, it is maintained, many seasonal workers are destitute, in poor physical and mental health, and are victims of other social and economic ills *not* because they work seasonally on farms, but rather it is *due to* those problems that they enter the fringes of the farm labor force.

> ". . . (T)hey actually are not a part of a qualified labor force. They are unfortunate people who, for one reason or another, have become derelicts in the scheme of things. They come from all walks of life and it is time that we, as a great State and Nation, recognize them for what they are, a social welfare problem that is everyone's responsibility, not just the farmers who had little or nothing to do with creating their problem. Industry, where they came from will not hire them at any price. Probably many of these people could be rehabilitated and made useful citizens again." (Hayes, Edward F., Manager, Imperial Valley Farmers' Association, p. 145, Dec. 15, 1960.)

> "Farmers did not create the social problems associated with some of the present seasonal labor supply. But by using this labor and having some of its living levels and behavior associated with farming, we now have many people seriously working to impose regulations and restrictions to stop what they determine to be exploitation of the farm labor force." (Heringer, *op. cit.*, p. 114, Nov. 16, 1959.)

> "The condition of this group of workers, by no stretch of the imagination, can be laid at the doorstep of agriculture. These people are social problems and rightly belong to the general public to care for. They should be removed from the work force, rehabilitated, and permitted to return to society at whatever level their abilities permit. It is about time government, industry, and society in general assumed their rightful responsibility in assisting this portion of our population, instead of turning their respective backs and saying, 'Let the farmer take care of them.' " (Bergen, *op. cit.*, p. 230, Jan. 28, 1960.)

That these contentions seem to be borne out by the facts in many instances, however, does not relieve farmers as employers from their responsibilities of meeting minimum standards in:

> "1. Transportation of farm workers.
>
> "2. Farm safety.
>
> "3. Field sanitation in food harvest.
>
> "4. Housing for farm workers.
>
> "5. Working conditions and wages and hours for women and minors.
>
> "6. Use of domestic labor if employers use the United States Employment Service for imported labor.
>
> "7. Minimum earnings per hour of employment."[66]

On the other hand, the complex of social and economic problems facing many people who are employed as seasonal farm help are not the farmer's alone to help mitigate. The seasonal farm worker himself has the greatest responsibility in efforts to better his life. The general community, also, has a duty in this regard. Two of the chief means of accomplishing this one are public welfare, to meet the economic and social problems today, and education, to improve the prospects for tomorrow.

ADULT EDUCATION

The level of formal educational achievement of the adult seasonal farm worker is abysmally low. Data from a survey conducted in Imperial, Kern, Kings, Tulare, Fresno, Merced, and Santa Clara Counties of 200 migrant farm worker families shows that 33 of 305 adults—10.8 percent—had no formal education. Of those who did attend school, 61 had no more than three years of school—22.4 percent; 91 had four through six years—33.5 percent; 82 had seven through nine years—30.1 percent; and 38 had 10 or more years—14 percent (see Still, *op. cit.*, p. 87 *et seq.*, Jan. 15, 1960).

California's entire adult (25 years and over) population had a much higher level of educational accomplishment. Only 5.7 percent had, in 1960, less than five years of schooling, 9.0 percent completed five through seven years, and 13.7 percent had a full eight years of formal education before dropping out. Of the total of 48.5 percent of the entire adult population who had some high school, 29.3 percent completed four years. And 23.2 percent of the total population had at least one year of college.[56]

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[66] *Resolutions Adopted at the 43d Annual Meeting of the California Farm Bureau Federation, November 8, 1961, p. 31.*

Another study, *A Preliminary Report on a Study of Farm Laborers in Fresno County*, showed that 50 percent of the fathers of families interviewed had less than seven years of formal education. The survey also showed that one-third of the group interviewed had no skills other than farm work.[57]

A third study, again in Fresno County, gave the following summary as to the skills of agricultural workers in a small rural village.

> "These people are, in general, unskilled workers, engaged in agricultural work.

"Farm laborer—This includes pickers, irrigators, tractor drivers, gin workers	58
Carpenter	4
Domestic work	5
Pensioners (OAS)	4
OASI	2
Grocery clerk	2
Contractor	2
Melon shed worker	2
Warehouseman	2
Store owner	2
Truck driver	1
ANC	1
Dishwasher	1
Mechanic	2
Meat cutter	1
Construction work	2
Box maker	1
Presser	1
Gambler	1
Janitor	1
Landscaper	1
Plumber	1
Small trucker	1''[58]

Little effort has been made in the State of California to provide adult education or retraining for seasonal farm workers.[59] The need for such efforts certainly exists and is generally recognized, but seems to have been overlooked. There are, of course, motivational problems concerning these people. The *Preliminary Report* states that ". . . the farm worker is eager to learn at one time and flatly refuses to participate in any effort to teach him at another time."[60] Continuing efforts, however, must be made to understand and then overcome these difficulties not only because of the severe limits they place today on the farm worker, but also because of rapidly accelerating mechanical revolution which is sweeping the State's agriculture. Technological displacement, most commonly thought of in urban industrialized settings, has been a major aspect in California agriculture for over a decade, particularly with the widespread introduction of the cotton harvester. If many of these workers are to have any chance of supporting themselves and their families in the modern western 20th century world, they must be better equipped educationally and vocationally.

> ". . . (T)he main thing that we need more than anything else is education of these people, how to maintain themselves and take care of themselves with what they earn." (Keenan, Monsignor Daniel, Fresno County, p. 151, Dec. 16, 1960.)

CHILD EDUCATION

In contrast to the general inactivity in the adult educational field related to seasonal farm workers, their children's educational problems have received increasing emphasis and action. Studies have revealed that the problems of the children are as severe as those of their parents.[61] Migrancy, the lot of many seasonal farm workers, itself is perhaps the most serious deterrent to good education. The mobility of children accounts for irregular attendance and the loss of many days at school. These children have low levels of achievement and most are retarded in several areas of schoolwork. Administratively, there is difficulty in obtaining transfers and records from schools previously attended. This difficulty, in turn, causes problems in accurately assessing achievement level and assigning the children to the proper class and grade. Differences in curriculum and in guidance techniques among schools also complicate this problem.

Cultural differences and health and economic problems contribute to the educational difficulties of children of seasonal farm workers. Often their parents are indifferent to their school attendance. This attitude is reflected in the children and they show a lack of emotional stability, interest, and purpose and often exhibit low morale. Lack of proper food and minimally adequate clothing hinders many children in their adjustment to school. Children from homes where Spanish is the native tongue have special learning and adjustment problems. Additionally, poor housing and an overall background of cultural and social deprivation compound problems of learning.

Although the basic responsibility and uppermost function of the schools and school personnel should be that of education, school facilities have been used to advantage in providing day-care and library services to farm laborers' children. This has been done successfully in Gridley, Butte County, at the large farm labor center (see page 43, Part II) in conjunction with a summer academic program during the peach harvest.[61] Similar projects in other areas, however, have not been successful.[62] Summer school programs have been highly devolped in some states in meeting the educational and day-care problems of farm worker children.[63] They have had limited application, however, in California principally due to the difficulties of financing, transportation, and regular enrollment closing before seasonal workers arrive.[64]

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[56] *Statistical Abstract of the United States, 1962*, Bureau of the Census, U.S. Department of Commerce, Washington, 1962, Table 143, p. 114.

[57] Beatty, William C., Jr., Patricia Pickford, and Thomas M. Brigham, *A Preliminary Report on a Study of Farm Laborers in Fresno County*, Fresno County Rural Health and Education Committee, Inc., and the Rosenberg Foundation, mimeographed, Fresno, California, 1960, p. 10.

[58] *Who Are They?—A Study of a Fringe Area Community in Fresno County, East Mendota*, prepared by a group of rural area professional workers (under general direction of Fresno County Community Council), mimeographed, Fresno, California, 1959, p. 10.

[59] Some notable work has been done in isolated instances such as literacy classes being provided by the Santa Clara County Welfare Department and training of tree and vineyard pruners by the joint efforts of Fresno State College and the California Department of Employment. These are by far, however, the rare exception rather than the rule.

[60] Beatty, op. cit., p. 49.

[61] Nance, Afton Dill, *Migrant Children in California Schools*, Bureau of Elementary Education, California State Department of Education, mimeographed, Sacramento, 1961.

Teacher training material and teaching aids have been prepared to assist in meeting the particular problems posed by these children. The State Department of Education has published a *Teachers Guide to the Education of Spanish-Speaking Children*, and the Fresno Rural Health and Education Committee, with assistance from the Rosenberg Foundation, has made widespread distribution of the handbook *Teaching Children Who Move With the Crops*.

Private groups, such as the Migrant Ministry of the National Council of Churches, the American Friends Service Committee, and the National Catholic Rural Life Conference, have in co-operation with local groups and school districts experimented to meet the educational and day-care needs of these children.

Local and statewide conferences devoted to exploring such educational problems and their solutions have been held.

Although these paths are slow and difficult, progress is being made. Furthermore, the availability of federal financial assistance through H.R. 10606 (P.L. 78-543, 76 Stats. 172) should make the furnishing of day-care centers more feasible in the future. Much remains to be accomplished in this field, however, in spite of recent progress.

PUBLIC WELFARE [65]

There are no studies or reports to the committee's knowledge which analyze to any comprehensive extent the effects of the farm labor situation on the administration of public welfare services in California. It seems evident, however, that two characteristics of the seasonal farm labor force—inadequate income and lack of integration into the community—create serious problems for public welfare services and increase the need for them both in quantity and quality.

INADEQUATE INCOME

> ". . . The domestic migrant usually arrives at his destination without funds or food so that immediate assistance is necessary. Most farm jobs are payable at the end of the day's work but many times the department will be asked for emergency assistance in the form of gasoline in order for the farm worker to have transportation to the outlying ranches where work is available."
> (McIntyre, John E., Director, Riverside County Welfare Department, p. 79, Jan. 15, 1960.)

The amount of income received on an annual basis by seasonal farm workers, as well as its irregular receipt, obviously provides only the narrowest of basis for stable self-support (see Figure 80, p. 160, Part I). This is reflected in the rate of seasonal increase in the number of families requiring general assistance (see page 18, Part II). This rate is twice as great for the San Joaquin Valley counties, the most highly agriculturalized area of California, as it is for the State generally. Furthermore, in the periods of agricultural inactivity, the seasonal farm worker has in most instances no resources such as unemployment insurance to fall back upon. General assistance, often limited to vendor payments for rent and utilities and surplus foods in rural counties, represents the only resource available to seasonal farm workers during the winter after they have depleted their summer months' savings, if any. Unless the father is absent from the home for over three months or is incapacitated, the farm worker's family is not eligible for the Aid to Needy Children program.[66]

Furthermore, the heavy labor aspect of farm work appears to be quite significant in the dependence upon public welfare programs of the aged, blind, and disabled. Every one of the eight San Joaquin Valley counties shows a significant caseload growth in the Old Age Security and Aid to Needy Blind programs, whereas the statewide caseloads of these two programs combined have maintained a steady downward trend.

Lastly, economic problems are created and aggravated by the large numbers of laborers and their families who migrate during the various crop harvesting seasons. Not only are the workers' expenses increased during their period of migration, but for both welfare and health purposes they are often without a county of residence and usually experience difficulty in obtaining needed services.

LACK OF INTEGRATION INTO COMMUNITY

Farm labor groups do not have an integral part in community life and do not have available to them community resources to the same extent as other citizens.[67] Part of this is due to the minority status of many of these people—Negroes, Mexican-American, and recent migrants from the Southwest. Part of the deficiency of services is due to the inaccessibility of the sources of services. Some is due to the attitudes of the communities and their leadership. And part of the lack of community integration is due to the seasonal laborers themselves, their disinterest arising often out of their hopelessness; their insufficient education, both formal and informal, in how to acquire denied community services; and because of indifference, their impotency as a political pressure group.

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[61] Gunterman, Joe, "The Gridley Experiment in Humanity," *San Francisco Chronicle*, August 26, 1962, "This World," pp. 6-7.

[62] "Growers School for Migrants Complete Failure," *Dos Palos Star*, September 21, 1961, p. 3.

[63] See various reports published by the Migrant Education Research Project, Colorado State Department of Education.

[64] Third Annual Conference on Families Who Follow the Crops, Education Workshop on Summer Schools for Children of Seasonal Farm Workers, March, 1962.

[65] Based primarily upon an office memorandum prepared by the California State Department of Social Welfare, under date of March 30, 1960.

[66] Except when the father is imprisoned or deported, or a filing for divorce or separate maintenance has been made. See W. & I. C. Sec. 1500.

[67] Beatty, *Preliminary Report*, *op. cit.*, pp. 54-5.

SUMMARY

In both the areas of lack of community integration and inadequacy of income, then, the public welfare programs are seeking to remedy the deprivation caused by society's and the individual's flaws. Although these programs can do much to relieve the symptoms of social and economic problems, they have limited ability to strike at the causes of the problems.

CHAPTER VII

AGRICULTURAL LABOR DISPUTES[68]

The potential of unionization ameliorating the economic and social problems involved in the supply of seasonal farm labor in California has already been examined in Part I of this report (see p. 199 *et seq.*). This chapter will discuss various aspects of labor disputes on the farm, including the role of governmental agencies in agricultural labor disputes, the provisions of federal and State laws and administrative regulations, a recapitulation of the most recent wave of disputes in California agriculture, and the need for a different method of governmental handling of farm labor strife.

GOVERNMENTAL AGENCIES

There are four main governmental agencies involved in most farm labor disputes: the United States Department of Labor, the California Department of Employment, the California Division of Labor Law Enforcement, and the State Conciliation Service. The latter two agencies are within the California Department of Industrial Relations and to date have played relatively minor roles in labor disputes on California farms.

UNITED STATES DEPARTMENT OF LABOR CALIFORNIA DEPARTMENT OF EMPLOYMENT

Both the U.S. Labor Department and the State Department of Employment became involved in agricultural labor disputes because of their mutual responsibilities in (1) administering the system of public employment offices—specifically the Farm Placement Service offices—and (2) administering certain phases of the Mexican National program.

EMPLOYMENT SERVICE REFERRALS OF DOMESTIC FARM WORKERS

The Wagner-Peyser Act (48 Stats. 113), enacted in 1933, provided for, among other things, the U.S. Employment Service and a national system of public employment offices administered by the Bureau of Employment Security (in 1949, B.E.S. was transferred from the Federal Security Agency to the Department of Labor by the President's Reorganization Plan No. 2 of 1949).

The Wagner-Peyser Act authorized the establishment and maintenance of public employment offices by grants of federal funds to those states which would co-operate with the U.S. Employment Service. States wishing to receive such funds were required to accept the provisions of the act and to submit their plans of operation to the Secretary of the U.S. Department of Labor.

California, in 1935, accepted the provisions of the Wagner-Peyser Act.

> "The State of California accepts the provisions of the Wagner-Peyser Act . . . and will observe and comply with the requirements of that act."[69]

Simultaneously, the California Department of Employment was designated to administer the provisions of the act in this State. Thus for 27 years, the State of California has established and maintained public employment offices utilizing federal funds and accepting the Wagner-Peyser Act's requirements and standards.

STATUTORY PROVISIONS REGARDING LABOR DISPUTES

With respect to any labor dispute, the Wagner-Peyser Act states only that:

> "In carrying out the provisions of this Act, the Secretary is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment."[70]

Another section, however, gives the Secretary of Labor the authority and responsibility to adopt regulations necessary for administering the provisions of the act.

> "The Secretary of Labor is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act."[71]

It was under the authority granted him by this section that the Secretary of Labor in 1949 defined more explicitly the role of the public employment offices in labor dispute situations by adopting regulation Section 602.2 (b) (the current regulation evolved from a 1939 regulation which stated ". . . the State Service shall . . . refrain from referring any person to any position at any place of employment where there exists a labor dispute" (29 C.F.R. 21.14 Supp. 1939)).

> "*Referrals in labor dispute situations.* No person shall be referred to a position the filling of

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[68] For most purposes, the terms "labor dispute" and "trade dispute" are synonymous and are used interchangeably. Traditionally in the farm labor field, however, the expression most commonly used has been "labor dispute." See Legislative Counsel's Opinion No. 5781, "Labor Disputes and Trade Disputes," Dec. 24, 1962, Exhibit 9, Appendix B, page 101.

[69] Unemployment Insurance Code, Section 2051.

[70] 29 U.S.C.A. 49 j (b).

[71] 29 U.S.C.A. 49 k.

> which will aid directly or indirectly in filling a job which (1) is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or (2) the filling of which is an issue in a labor dispute. With respect to positions not covered by subparagraph (1) or (2) of this paragraph, any individual may be referred to a place of employment in which a labor dispute exists, provided he is given written notice of such dispute prior to or at the time of his referral."[75]

The Wagner-Peyser Act's provisions do not give a definition of what constitutes a "labor dispute" and the Secretary of Labor's regulations adopted under the act also fail to currently give such a definition. Responsibility for the definition, in effect, has been left to each state to prescribe according to its own statutes and judicial construction. It is necessary, first, to discuss what in California constitutes a labor dispute before examining the administration of Regulation Section 602.2 (b).

DEFINITION OF "LABOR DISPUTE"

Although neither federal statute nor regulation establish what a labor dispute is for the purposes of employment placement operations under the Wagner-Peyser Act, the ultimate authority for such a definition rests with the federal rather than with state government. In order to derive federal funds for establishing and maintaining a system of public employment offices under the authority of the Wagner-Peyser Act, a state must:

(1) Accept and comply with the provisions of the act.

(2) Continuously co-operate with and conform to the directions of the Secretary of Labor in the conduct of the system.

(3) Conduct its system in accordance with the rules and regulations and the standards of efficiency prescribed by the Secretary, and

(4) File with and obtain approval from the Secretary of its detailed plans for carrying out the provisions of the act in its employment system.

The Secretary of the United States Department of Labor, therefore, has the authority of accepting or rejecting any state's definition of "labor dispute" even though it is left to the states to make the definition.

> ". . . it seems self evident that the ultimate authority to adopt 'labor dispute' standards rests with the Federal Government. Though there appears to be nothing to prohibit . . . a state from adopting such standards, any such undertaking would, of course, entail the risk that the state's system would be found by the Secretary of Labor to be out of conformity with the federal law and implementing regulations and standards. . . ."[76]

It is obvious that for administrative purposes the State Department of Employment needed a description of what constitutes a labor dispute and since 1948, the following definition had been used:

> "The term 'labor dispute' includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee."[77]

This definition, contained in the department's *Local Office Manual* (LOM) Section 1187, is identical to that used in the Norris-LaGuardia Act (29 U.S.C.A. 113) and was used when the department sought to determine if an alleged dispute in *either agriculture or industry* was one for the purposes of referring workers. As a matter of fact, however, there were few labor disputes in agriculture from 1948 to 1960.

Early in 1960, it became apparent there would probably be many agricultural labor disputes. The Department of Employment, therefore, revised its specific instructions for the Farm Placement Offices by adding a definition of labor dispute at Section 2366 LOM (relating to the contract foreign worker programs) on April 4, 1960, and at Section 2178, LOM (relating to domestic worker referrals) on May 27, 1960. Until these revisions were made, the Farm Placement Offices had no definition of labor dispute in their agricultural manual sections and had to refer back to Section 1187.

In making the amendments, which contained identical provisions for both Sections 2366 and 2178, the department, apparently inadvertently, adopted a definition of labor dispute which was different from that used since 1948 in Section 1187.

> "The term 'labor dispute' includes any controversy concerning terms, *tenure* or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee."[78]

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[75] 20 C.F.R. 602.2 (b). A regulation with identical wording appears at 20 C.F.R. 604.1 (1) relating to the policy of the United States Employment Service.

[76] "Placement of Workers Under the Wagner-Peyser Act"—Legislative Counsel's Opinion No. 4504, February 9, 1961, p. 3. See Appendix B, Exhibit 10, page 103, for entire opinion.

[77] *Local Office Manual*, California Department of Employment, Section 1187.

[78] *Local Office Manual*, California Department of Employment, Manual Amendment Transmittal No. 517, April 4, 1960, adding Section 2366, and Manual Amendment Transmittal No. 547, May 27, 1960, adding Section 2178. (Emphasis added.)

On the surface, the differences between Sections 2366 and 2178, on one hand, and Section 1187, on the other, are small—simply that the word "tenure" appeared in the former whereas it did not in the latter. However, the definition which uses the word "tenure" is identical to the definition of labor dispute in the National Labor Relations Act (29 U.S.C.A. 152(9)) and this federal statute specifically exempts agriculture and agricultural labor from its provisions (29 U.S.C.A. 152(3)). The definition in Sections 2366 and 2178, consequently, ran into heavy opposition from agricultural representatives.

> ". . . I think our problem here is one of the proper definition of trade dispute or labor dispute; and we do not believe that it is proper to take the definition of a labor dispute as it appears in that Labor Relations Act and place it under these State regulations without taking along with it the agricultural exemptions." (Lyon, George C., Attorney at Law, representing the Western Growers Association and the Imperial Valley Farmers Association, p. 51, June 15, 1960.)

> ". . . (T)he crux of the case is the definition of 'trade dispute.' . . . It is the position of the growers that the State law is not properly interpreted by the Department (of Employment) and that the regulations which the department has used is not proper. . . . The definition used by Mr. Perluss (Director, State Department of Employment) is taken from the National Labor Relations Act. He contends that he does it under the State law, but he is using that Labor Relations definition. In that case, the Congress was very clear to point out that there was a difference of bargaining power between industry and employees and that this act was designed to balance that power, and they exempted agriculture from the act obviously showing they were never intended to balance the power between the agricultural man, the farmer, and the labor union. Now, he brings that definition over into California. He doesn't bring the exemption. He simply applies that broad definition." (McDaniel, Ivan G., Attorney at Law, see footnote 76 for groups representing, pp. 36-37, June 15, 1960, as corrected pp. 355-7, Dec. 17, 1960. Parenthetical material added.)

Presumably due to these attacks on the new definition of labor dispute in LOM Sections 2366 and 2178, and also in order to remove the inconsistency of these sections with Section 1187, the State Department of Employment amended both 2366 and 2178 on June 22, 1960, to remove the word "tenure."[77] Thereupon, these sections became, first, identical to the historic wording in Section 1187; secondly, lost their similarity to the National Labor Relations Act; and thirdly, became identical to the definition of labor dispute in the Norris-LaGuardia Act.

SUMMARY

It appears to the committee on the basis of the following three arguments that, aside from its last phrase which relates to the employer-employee relationship between disputants, the State Department of Employment's current administrative definition of "labor dispute" was legally fully justified.

1. The Legislative Counsel has advised us that in his opinion the provisions of both the National Labor Relations Act and the Norris-LaGuardia Act do not control the validity of anything in the Department of Employment's *Local Office Manual* whether or not one of the directives contained in the manual happens to have been patterned after a provision of those acts.[78]
2. At no time during 1960, or since, has the Secretary of Labor exercised his ultimate authority to formally or informally question or reject the definitions of labor dispute as contained in LOM Sections 1187, 2178, or 2366.
3. The contentions of the attorneys for the growers cited above, although made to this committee, were never, to the best of our knowledge, brought to the attention of the California courts in any of the several cases concerning farm labor disputes which were litigated.

EMPLOYER-EMPLOYEE RELATIONSHIP

The only other controversy which arose relating to the definition of labor dispute used by the State Department of Employment in their agricultural referral and placement operations was centered on the definition's last phrase: ". . . regardless of whether the disputants stand in the proximate relation of employer and employee."[79]

The Department of Employment, in operating under the provisions of the Wagner-Peyser Act, must of necessity have a definition of what constitutes a labor dispute. To be a complete definition, some reference must be made as to whether an employer-employee relationship between the disputing parties is necessary in order for a dispute to be bona fide. As previously mentioned, however, neither the act nor the

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[76] Representing: Tulare County Labor Stabilization Committee; Agricultural Labor Bureau, San Joaquin Valley; California Grape and Fruit Tree League; Agricultural Producers Labor Committee; Council of California Growers, Ventura County; Citrus Growers of Anaheim, California; Southern California Farmers; Riverside Agricultural Association; San Gabriel Valley Labor Association; Redlands Highland Farm Labor Association; and San Diego County Farmers Association.

[77] *Local Office Manual*, California Department of Employment, Manual Amendment Transmittal No. 563, June 22, 1960.

[78] "Department of Employment Placement Service Operations"—Legislative Counsel's Opinion No. 5606, November 21, 1962. See Appendix B, Exhibit 11, page 103, for entire opinion.

[79] *Local Office Manual*, California Department of Employment, Sections 1187, 2178, and 2366.

regulations adopted thereunder by the Secretary of Labor define a dispute or settle any question which might arise concerning the necessity of the employer-employee relationship.

Many years ago, as pointed out above, the Department of Employment decided, for use in all of its placement operations, that a labor dispute need not be limited to a dispute between an employer and his workers. There appear to be four justifications for this decision.

1. California statutes do not provide a definitive prescription of what comprises a labor or trade dispute or of the necessity of an employer-employee relationship.
2. California courts, on the other hand, have developed a body of case law which sets out for certain situations such a definition which holds that an employer-employee relationship is not necessary to the existence of a lawful labor dispute.
3. The Department of Employment has concluded it is bound by these court decisions.
4. There exists in the federal statutes, for various purposes, definitions of labor disputes not contingent upon the employer-employee relationship. These definitions are widely recognized and accepted.

LACK OF DEFINITION IN CALIFORNIA STATUTES

As pointed out by the Legislative Counsel, California State law does not contain, for any purpose, an explicit statement as to whether a labor dispute must entail an employer-employee relationship in order to be valid.[80]

CALIFORNIA CASE LAW

The California courts have held in a series of case decisions that a lawful labor dispute can exist, for the purposes of applying the provisions of the Jurisdictional Strike Act (Lab.C. Sec. 1115 *et seq.*), where a labor union directs concerted activities against an employer whose workers in whole or in part do not belong and do not desire to join or be represented by the union.[81]

CALIFORNIA CASE LAW BINDS DEPARTMENT OF EMPLOYMENT

The State Department of Employment agrees that these cases do not factually relate to agriculture or agricultural labor and that, likewise, they have no direct relevance to the department's referral and placement operations (Perluss, *op. cit.*, p. 25, June 13, 1963). Legally and logically, however, the department contends it can find no basis for not applying the decisions as it has.

> ". . . (A)s I read the Supreme Court decisions, while it's true they deal with industry not agriculture, they nevertheless are decisions of the highest court of this State for which I have great respect and I feel I would be most derelict in my duty as an administrator and as a lawyer were I not to adopt and follow the decisions of the higher courts. . . . Therefore, as I view the cases which have been decided by the highest court of California, I am compelled to conclude that for a labor dispute to exist in California there need not be an employer-employee relationship between the disputants." (*Ibid.*, pp. 23-4 and 9.)

FEDERAL STATUTES

Since 1932, the federal law has recognized the validity of labor disputes between an employer and a labor organization which does not represent the employer's workers (Norris-La Guardia Act, 47 Stats. 70, 29 U.S.C.A. 101). The application of this principle to the farm placement operations conducted by the State Department of Employment is sound because:

1. The economic competition of unorganized farm workers and farms poses as much a threat to organized workers and farms as unorganized industrial workers and firms to organized industrial workers and firms, and
2. The department must remain neutral (by not referring workers to jobs vacant due to a strike) when organized farm workers attempt to remove the economic threat posed by unorganized farms and farm workers just as it remains neutral by not paying unemployment compensation benefits to workers who have left their jobs because of a labor dispute (Unemployment Insurance Code, Section 1262).

NECESSITY FOR EMPLOYER-EMPLOYEE RELATIONSHIP

Representatives of California agriculture attacked the State Department of Employment's definition of a labor dispute which does not require an employer-employee relationship on the following grounds:

1. That both agricultural and industrial employers in California are victims of a grossly inequitable situation under the *Messner* and *Petri* decisions, cited above in footnote 81, which allow organizational picketing.

   "We believe that because of the recent decision of the California Supreme Court commented upon above (*Messner* v. *Journeymen Barbers,*

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[80] "Labor Disputes"—Legislative Counsel's Opinion No. 5434, November 28, 1962. See Appendix B, Exhibit 13, page 104, for this opinion.

[81] See *Petri Cleaners Inc.* v. *Automotive Employees, etc., Local No. 88* (53 Cal. 2d 455) and *Messner* v. *Journeymen Barbers, etc., International Union* (53 Cal. 2d 873). These decisions reinstate the validity of such decisions as *C. S. Smith Met. Market Co.* v. *Lyons* (16 Cal. 2d 389) and *McKay* v. *Retail Automobile S.L. Union No. 1067* (16 Cal. 2d 311).

etc.), that one element of our society, namely organized labor unions, have been given an economic weapon of such force that they are able to obtain a monopolistic position far beyond that which our legislative bodies would permit any group or segment of our society to go." (Henley, *op. cit.*, p. 27, June 15, 1960.)

"... (T)he trade dispute should be based upon employer-employee relationship ... it's the fair thing under these circumstances ...." (McDaniel, *op. cit.*, p. 41, June 15, 1960.)

2. That agriculture is unique from other industries in its extreme vulnerability to the consequences of farm labor disputes. The farmer, because of the perishability of his crops and his complete dependence upon a successful harvest for returns on his investment of time and effort, is in a wholly indefensible bargaining position.

   "Now, if a definition of trade dispute could be made, and it must be made, there should be a separate definition of a trade dispute in agriculture which will bring back a greater equality in bargaining power." (Lyon, *op. cit.*, p. 53, June 15, 1960.)

3. That the Department of Employment was not prevented by statute from defining a farm labor dispute as one in which the employer-employee relationship is required.

   "I can see no reason why as of this date the Department of Employment cannot determine that labor disputes do not include stranger picketing. . . . There is no statute that says he (the department's director) cannot. It seems to me this is a reasonable solution . . . ." (Ward, John F., Attorney at Law, representing the Associated Farmers of California, p. 76, June 15, 1960.)

4. That the Department of Employment, acting without statutory authority, defined a labor dispute in an arbitrary, capricious, and unreasonable manner.

   ". . . (T)he court recognized in those cases (*Messner* and *Petri*) that in itself it could not come in and establish a flat labor relations act. . . . That being the case, it seems to us that the administrative agency has the same power the court does. They can't come in and balance the power or balance the play of these forces in favor of one side or another, which necessarily this does . . . ." (McDaniel, *op. cit.*, p. 38, June 15, 1960.)

SUMMARY

There has been no litigation in California courts testing the validity of the definition of labor dispute adopted by the State Department of Employment which holds that, for purposes of placement of agricultural workers, a labor dispute can exist without reference to the employer-employee relationship between the disputing parties. Although in several instances the department determined under the definition that alleged disputes were bona fide when ranches were picketed by nonemployee union members and no domestic employees left their jobs, none of the farm employers sought relief from the department's determinations or challenged the definition itself in court.[30]

It is the committee's belief that the State department's ruling regarding the nonessentiality of the employer-employee relationship between farm labor disputants would more likely than not be held valid on the following bases:

1. Nothing exists in the Wagner-Peyser Act, or regulations adopted under it by U.S. Secretary of Labor, which expresses or implies that labor dispute referral and placement standards for agricultural workers should differ from those for industrial workers. In fact, because the Wagner-Peyser Act makes specific mention of agriculture (29 U.S.C.A. 49 (b) and 49 (c) (1)) and yet does not provide for special treatment of labor disputes in agriculture, it is probable that Congress intended that the labor dispute referral and placement standards for both industry and agriculture be identical.
2. Nothing exists in State law which expresses or implies the use of labor dispute placement and referral standards for agricultural workers which are different from those for industrial workers.
3. The *Messner* and *Petri* decisions would probably be applicable to jurisdictional strikes involving farm workers and employers in like factual situations.
4. Although the application of the rules of law developed in the *Messner* and *Petri* cases to the administration of the Farm Placement Service is not a mandatory consequence arising from the decisions themselves, such application seems a reasonable and consistent exercise of the administrative agency's discretionary authority.
5. Even though great practical differences exist in the bargaining positions of farm and industrial employers, the administrative agency could not change a rule of long standing (*i.e.* LOM Sec. 1187) which treats them in a like manner without expressed legislative direction.

U.S. SECRETARY OF LABOR'S REGULATION 602.2 (b)

In contrast to the absence of a clear federal policy regarding the definition of a labor dispute, federal law and regulations do prescribe what a state's public employment system shall and shall not do once it has been determined a labor dispute situation exists. As stated and cited on page [illegible], both Section 49 j (b) of the Wagner-Peyser Act and the Secretary of Labor's Regulation 602.2 (b) are involved. There are, in effect, three distinct subsections in this regulation.

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[30] Trade dispute numbers 60-1587-A, 60-1586-A, and 62-0980-A. For State Department of Employment's findings and determinations concerning these disputes see Appendix B, Exhibits 13, 14, and 15, pages 105, 106.

REFERRAL PERMITTED IF NOTICE GIVEN

The last sentence of 602.2 (b) states:

"... With respect to positions not covered by subparagraph (1) or (2) of this paragraph, any individual may be referred to a place of employment in which a labor dispute exists, provided he is given written notice of such dispute prior to or at the time of his referral." This is the part of 602.2 (b) which follows exactly the dictates of the Congress expressed in Section 49 j (b) of the Wagner-Peyser Act.

> "In carrying out the provisions of this Act, the Secretary is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment."

Both the statute, then, in the only place where it gives specific mention to referrals in a labor dispute situation, and part of regulation 602.2 (b) under certain circumstances permit a state's public employment system to make referrals of job applicants to an employer who is involved in a labor dispute. Such a circumstance would be the following situation: A farmer has a packing shed on his ranch. The packing shed workers go on strike. There is no dispute, however, involving field work. Here the State Department of Employment may refer workers to the field work (but not the packing shed work, as explained later) providing it gives written notice of the packing shed dispute to the workers. There has been, to the committee's knowledge, no challenge of this provision in farm labor disputes in California.

REFERRAL NOT PERMITTED IF JOB VACANT BECAUSE OF STRIKE—602.2 (b) (1)

The second of the three subsections of the secretary's regulation 602.2 (b) states:

> "No person shall be referred to a position the filling of which will aid directly or indirectly in filling a job which (1) is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute. . . ."

There is no explicit parallel to this part of the regulation, the provisions of which are self-explanatory, in the Wagner-Peyser Act. It is not surprising, then, that this provision of the regulation was contested as being unauthorized by the Congress.

During the summer of 1960, the secretary's rule was attacked in several law suits as being invalid. The two most notable cases were brought by Thomas C. Bowers, a Sutter County peach grower, and the DiGiorgio Fruit Corporation.[illegible] Both the Bower's ranch and DiGiorgio's Dantoni pear orchard, which is also located in Sutter County, were struck by a vast majority of their domestic seasonal farm employees. The Marysville Farm Placement Office of the State Department of Employment refused to refer domestic workers to either ranch on the grounds they were prevented from doing so by regulation Section 602.2 (b) (1). In both cases, heard before the Yuba County Superior Court, the regulation was attacked as being in conflict with Section 49 j (b) of the Wagner-Peyser Act which, it was maintained, contemplates that job applicants are to be referred to job openings regardless of the existence of a labor dispute after they have been given notice of that dispute. Among other arguments, it was also contended, that, since the broad acts of Congress regulating labor relations which were passed after the Wagner-Peyser Act contained express exemptions for agricultural labor and agriculture, the secretary's regulation subverted those statutory exemptions.

The State Department of Employment, on the other hand, pointed out that Wagner-Peyser Act Section 49 j (b) is not in conflict with regulation 602.2 (b) (1) but merely states, rather, a minimum mandatory duty; that it cites what the secretary must do but does not limit what he can do. Furthermore, the State contended, the prohibition of referrals, as provided for in this part of the regulation, had been in effect for over 20 years; that the Congress had on several specific occasions failed to amend the statute to clarify Section 49 j (b) in the face of the regulation and had thus indicated its implicit approval of the regulation; and that a long continued administrative construction, such as is the case with this regulation, is entitled to great weight and should not be overturned in the absence of a definitive showing that it is clearly erroneous.

In both cases the superior court held the Secretary of Labor's regulation to be without force and effect because of its conflict with Section 49 j (b) of the act, and to be without and in excess of the authority granted him to adopt regulations (see Exhibits 16 and 17, Appendix B, page 107).

Many growers, at this point, argued that the Department of Employment should have accepted the superior court's decisions as conclusive and should have amended subsection (b) (1) accordingly. The department, however, felt that an appeal of these cases to a higher court (*i.e.*, the State District Court of Appeal or the State Supreme Court) was necessary on four grounds.

[illegible] *Thomas C. Bowers v. Department of Employment of the State of California*, Yuba County Superior Court, 1960, No. 35823, and *DiGiorgio Fruit Corporation v. Department of Employment of the State of California*, Yuba County Superior Court, 1960, No. 14706.

1. It is an accepted judicial principle in California that a superior court decision does not constitute a legal precedent binding on other courts. It is conclusive only upon the specific parties to the specific action heard. It is not binding upon other superior courts which could rule to the contrary. In order to obtain an authoritative interpretation, and a binding precedent, it was necessary to appeal to a higher court.
2. Outside of the requirements for a binding precedent decision, the Department of Employment simply did not agree with the initial *Bowers* and *DiGiorgio* decisions.

   "I am convinced that the decisions of the superior court which in effect nullifies the secretary's regulation are not a correct interpretation of the secretary's power under the federal law." (Perluss, *op. cit.*, p. 47, Dec. 15, 1960.)
3. A great danger existed to the public's interest in maintaining a neutral and fair system of public employment offices. The decisions requiring the referral of workers to jobs vacant because of a strike or lockout would have to be applied to nonagricultural as well as agricultural situations. Thus, in effect, the public employment system would be in the position of taking sides and acting as strikebreakers in both farm and industrial labor disputes.
4. The department felt that the statewide application of the decisions would have placed the State clearly out of compliance with the Wagner-Peyser Act (*i.e.*, nonacceptance of the act's provisions). The result of this noncompliance could have been either the withdrawal of over $13,000,000 of administrative funds a year which finance California's employment service program or the taking over of the State system's operation by the Federal Government.

Led by these four considerations, the State Department of Employment requested the State District Court of Appeal to reverse the decision given by the superior court in the *DiGiorgio* case. The appellate court, however, dismissed the department's appeal.[64] Thereupon the department petitioned the California Supreme Court for a hearing. The petition was granted and the court heard arguments concerning the Secretary of Labor's regulation 602.2 (b) (1) in both the *Bowers* and *DiGiorgio* cases which were virtually identical to those presented to the superior court. The only major difference was the argument of the attorneys for the farm employers. They contended that since the crops had long been harvested and the pickets withdrawn, the issues which led to the superior court's decisions were moot (*i.e.*, meaningless), and that the Supreme Court should therefore dismiss the department's appeal.

In its 5 to 2 decision, the Supreme Court held that:

> "Section 11(b)*(49j(b))* does not provide that the secretary must authorize referrals when there are strikes or lockouts. It provides only that notice must be given before referrals are made, and only to this extent does it restrict the rulemaking power granted by Section 12 *(49k)*. . . . Consistent administrative construction of a statute over many years, particularly when it originated with those charged with putting the statutory machinery into effect, is entitled to great weight and will not be overturned unless clearly erroneous. . . . We cannot say that the secretary or his predecessors erred in determining the scope of their rulemaking power under the act or that the regulation challenged by petitioners is invalid."[65]

The dissenting opinion held that it ". . . would dismiss the appeals, as the issues which were before the trial court are now moot."[65]

None of the decisions rendered by California courts directly answer the contention that regulation 602.2 (b) (1) subverts the statutory exemptions in the general field of labor relations given to agriculture and agricultural labor by the Congress. The committee has been advised by the Legislative Counsel, however, that in his opinion ". . . the application of the provisions of the Wagner-Peyser Act and the authorized regulations implementing it, to placement of agricultural workers, is valid."[66]

REFERRAL NOT PERMITTED IF THE FILLING OF THE JOB IS A LABOR DISPUTE ISSUE—602.2 (b) (2)

The third subsection of the Secretary of Labor's regulation 602.2 (b) adopted to implement the Wagner-Peyser Act states:

> "No person shall be referred to a position the filling of which will aid directly or indirectly in filling a job which . . . (2) the *filling* of which is an issue in a labor dispute. . . ." (Emphasis added.)

There are two possible definitions of the word "*filling*" as used in subsection (2). Defined in the narrow sense, subsection (2) could include only such disputed issues as union shop, closed shop, seniority provisions, job specifications—those issues associated with the mechanics of "filling" the job. In its broad sense, subsection (2) could include disputed issues not directly related procedurally to the filling of jobs; that is, issues such as wages, hours, union recognition, and working conditions.

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[64] *Digiorgio Fruit Corporation* v. *Department of Employment of the State of California*, in the District Court of Appeal, State of California, Third Appellate District, No. 3, Civil 10140. The order for dismissal was made without a written opinion.

[65] *Digiorgio Fruit Corporation* v. *Department of Employment of the State of California* and *Thomas C. Bowers* v. *Department of Employment of the State of California*, 54 Cal. 2d 60-62. See Appendix B, Exhibit 18, page 108, for the complete decision and dissenting opinion. (Italicized section numbers added.)

[66] "Farm Placement Activities Under the Wagner-Peyser Act"—Legislative Counsel Opinion No. 6499, February 3, 1961, p. 3. See Appendix B, Exhibit 19, page 110, for entire opinion.

INITIAL INTERPRETATION OF 602.2 (b) (2) BY DEPARTMENT OF EMPLOYMENT

Until June 6, 1960, the California Department of Employment had for many years given subsection (2) the broad definition. Thus in a hypothetical situation where (1) a union demanded that the farm employer recognize the union as the workers' bargaining agent and also increase picking rates from $1.00 to $1.25 per hour, (2) the farm employer rejected both demands, (3) the union established a picket line at the ranch and advertised the existence of a labor dispute, and (4) none of the employer's workers left their jobs because of the union's action, the Department of Employment's determination would have been that a dispute within the meaning of regulation 602.2 (b) (2) existed and it could not have referred workers if so requested.

Because of the department's uncertainty of this interpretation, however, on June 6, 1960, it requested the U.S. Secretary of Labor to clarify the definition of his regulation. Indirectly, the State department was advised that the Secretary of Labor did not subscribe to the broad definition given to subsection (2).[57] The State Department of Employment was further informed that:

> "The U.S. Department of Labor does not tell you that you may not implement the regulations by state policy. To the extent that you do so, however, the Department of Labor does not consider that you are proceeding on the basis of Wagner-Peyser regulations. . . ." (Perluss, *op. cit.*, quoting memo from Kenneth Robertson Regional Solicitor, U.S. Department of Labor, dated June 6, 1960, p. 13, June 15, 1960.)

CURRENT INTERPRETATION OF 602.2 (b) (2) BY DEPARTMENT OF EMPLOYMENT

Immediately upon receipt of the opinion from the U.S. Department of Labor, the State Department of Employment changed their policy regarding the implementation of Wagner-Peyser Regulation 602.2 (b) (2) to the narrow interpretation. Thus in the illustration used above, the Department of Employment's determination would currently be that although a labor dispute existed, it did not exist within the scope of subsection (2), and that workers could be referred after being given written notice that a labor dispute existed. If, of course, in this situation the union were to broaden its demands to include a union shop, the dispute would come within the narrow interpretation of subsection (2).

This change was made because the Department of Employment knew of no State policy upon which it could rely if it continued to use the broader interpretation.

> ". . . I feel that I would be derelict in my responsibility if I were not to immediately adopt the narrow interpretation as the proper interpretation of the Wagner-Peyser regulation and this has been done. And I do this because I know of no State policy on which I can rely.
>
> "In other words, I must rely solely on the Wagner-Peyser (Act) to sustain my position and the regulations of employment of the Wagner-Peyser (Act) to substantiate the position I take." (Perluss, *op. cit.*, p. 14, June 15, 1960.)

There has been no criticism of this interpretation of regulation 602.2 (b) (2) and it has not come before the courts in any of the cases in which the Department of Employment was involved.

OPERATION OF MEXICAN NATIONAL PROGRAM IN LABOR DISPUTE SITUATIONS

In 1951, the 82d Congress enacted, and the President signed into law, Public Law 78 (7 U.S.C.A. 1461) (see Appendix G, Exhibit 1, Part I). The purposes of P.L. 78 are those of (1) supplying Mexican seasonal agricultural workers (braceros) to alleviate shortages in the domestic seasonal farm work force, and (2) protecting the domestic seasonal farm work force from any adverse effects occasioned by the importation program. An international agreement was jointly concluded in 1951 between the United States and Mexican Governments authorizing the contracting of Mexican farm workers and detailing the operational features of the program (see Appendix G, Exhibit 2, Part I). Both the Migrant Labor Agreement and P.L. 78 have been amended from time to time.

The U.S. Secretary of Labor is designated by the agreement and P.L. 78 as the United States agent responsible for the administration of the Mexican National program. The secretary implements the program: at the federal level through the U.S. Department of Labor, Bureau of Employment Security, U.S. Employment Service; and at the State level through the California Department of Employment, Division of Public Employment Offices and Benefit Payments, Farm Placement Service. The authority and responsibilities of the State agency are assigned by an agreement between the State and the secretary (see Appendix G, Exhibit 3, Part I) as authorized by P.L. 78, Sec. 507(1).

There are no provisions in P.L. 78 which relate directly to farm labor dispute or strike situations. The Migrant Labor Agreement, however, contains in Article 22 specific requirements applicable to strikes or lockouts. Until February 1, 1962, Article 22 provided:

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[57] See Perluss, *op. cit.*, pp. 10-14, June 15, 1960.

> "No Mexican worker shall be used to fill any job which the Secretary of Labor finds is vacant because the occupant is out on strike or locked out in the course of a labor dispute.
>
> "In the event of a strike or lockout on the farm or in the establishment in which Mexican workers are employed which seriously affects the operations in which they are engaged, the Secretary of Labor shall make special efforts to transfer such workers to other agricultural employment and give them preference over all other Mexican workers.
>
> If no transfer can be arranged, the Secretary of Labor shall, without regard to Article 30, withdraw the authorization covering them, in which event their respective work contracts shall be terminated. The employer's obligation under Article 10 of the work contract shall apply only for the period beginning with the day after the Mexican workers' arrival at the place of employment and ending with the date the work is terminated under this Article."

There are several significant aspects of these provisions which should be noted. Initially, the responsibility for determinations under and enforcement of Article 22 has always been solely that of the Federal Government. Secondly, Article 22 is somewhat more restrictive than Wagner-Peyser Regulation 602.2 (b). Whereas the agreement speaks only in terms of jobs which are vacant because of "a strike or lockout" and thus presumes an employer-employee relationship between the employer and the domestic workers, regulation 602.2 (b) in subsection (2) relates to jobs the "filling" of which are an issue; that is, where an employer-employee relationship is not necessary. Thirdly, if Mexican workers are actually working on a farm which is involved in a strike or lockout, they could be removed only if the strike or lockout "seriously affects the operations in which they are engaged."

REMOVAL OF MEXICAN WORKERS IN A STRIKE OR LOCKOUT

The removal of braceros who were already working when a strike or lockout occured required, until February 1, 1962, a formal determination by the U.S. Secretary of Labor that the strike or lockout "seriously affects the operations in which they are engaged." Representatives of organized labor claimed this provision permitted using Mexican workers as strikebreakers (Knowles, Clive, International Representative, United Packinghouse Workers of America, AFL-CIO, pp. 291 and 295-6, Jan. 27, 1960). They reasoned that because (1) such determinations took too long, and (2) because of the use of artificial and unrealistic definitions of "operations" and "seriously affects," Mexican workers were allowed to remain and offset otherwise effective strikes by domestic farm laborers.

Growers, on the other hand, contended that the union in several instances conducted "phony" strikes in which the domestic laborers worked less than an hour, walked off the job, and then insisted that the braceros who were working should be removed. There was also one instance where the strikers invaded the orchard being struck and tipped over ladders upon which braceros were working and thusly injured several of the Mexican workers. The Consul for the Mexican Government ordered the braceros removed because of the threat to their health and safety.

SUMMARY

Of the 38 farm labor strikes, where 3,831 braceros were working, which occured in 1960 and 1961 (when this provision was in force), braceros were removed in 24. A total of 2,201 Mexican workers—or 57.5 percent—were removed. These figures, although indicating the number of Mexican workers involved in California farm labor disputes, do not shed much light on the charges and countercharges which were traded concerning Article 22 and its operation.

There was, likewise, little litigation concerning the removal of braceros under strike conditions. Only one case was filed challenging the Secretary of Labor's action. The court held, however, that it would have been an idle and useless act to pass on the secretary's action because of the subsequent unilateral removal of the workers by the Mexican Government.[88]

AUTHORIZATION OF MEXICAN WORKERS DURING A LABOR DISPUTE

Under the provisions of the Federal-State Agreement, the State Department of Employment is responsible for informing the U.S. Secretary of Labor of the need for, and requesting the authorization of, Mexican workers. The standards used by the State department in meeting this responsibility are:

> "1. Sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed:
>
> "2. The employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed; and
>
> "3. Reasonable efforts have been made to attract domestic workers for such employment at wages and standard hours of work comparable to those offered to foreign workers."[89]

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[88] *Bowers* v. *Huxley, et al.*, Federal District Court, Sacramento, Case No. 8141, August 4, 1960.

[89] P.L. 78, Sec. 503 (7 U.S.C.A. 1463).

In many farm labor dispute situations in California during the 1960-61 period, the State department was faced with the following set of circumstances:

1. A bona fide labor dispute existed on a ranch where no Mexican Nationals were employed (exempting the situation from the provisions of Article 22).
2. Due to the dispute, domestic workers could not be referred under Wagner-Peyser Regulation 602.2 (b) by the Department of Employment.
3. A request was made by the farmer for Mexican National farm workers.

The problem which confronted the Department of Employment was whether it, as the representative of the Secretary of Labor, could attest to the need for and request authorization of braceros for that farmer. This problem was made particularly difficult because no precedent solution existed (Perluss, *op. cit.*, p. 22, June 15, 1960).

Two specific solutions were proposed by the representatives of agriculture:

1. That, as a practical matter, the Department of Employment knows the existence and extent of domestic labor shortages. Mexican Nationals would be authorized, not to replace domestic workers who left their jobs because of the dispute, but rather to meet the need for additional workers.

> "It seems to me the Department of Employment today knows very well this summer there'll be a real shortage of workers to pick crops. . . . They need merely ask the growers, 'How many workers are you short?' and find out what the shortage situation is. Once that is done they are in a position to certify or not certify the use of Mexican Nationals. The Mexican National Agreement only denies the use of those people in picking the crop where they are used to replace domestic workers." (Ward, *op. cit.*, pp. 74-5, June 15, 1960.)

2. That the Secretary of Labor prescribe referral regulations specifically covering this type of situation.

> "**Senator Cobey** . . . If you want to resolve this matter by writing a set of referral regulations that had specific reference to the Migrant Labor Agreement, that sort of thing, you could do so. It would resolve this entire matter itself.
>
> "**Mr. Lyon**: I would think they could do that. . . ." (P. 52, June 15, 1960.)

The State Department of Employment's position, however, was that when it cannot legally refer domestic workers, it is prohibited from requesting authorization for Mexican National workers.

> "The Secretary of Labor has informed us recently that . . . a condition precedent to the use of Mexican workers is a certification by the Secretary of Labor that sufficient able, willing and qualified domestic workers are not available. The only method for making this determination is to require an employer to file a job order with a local office of the State Department of Employment and for the department thereupon to seek to fill it. Failing to fill the job order, the department has determined the unavailability of domestics and can so inform the secretary. I then properly can certify to the lack of domestics and authorize the use of Mexican National workers.
>
> "But, if because of the Wagner-Peyser Act and its regulations, the department cannot accept a job order, or if it accepts it, cannot fill the order, how can the necessary condition precedent, *i.e.*, the certification of unavailability of domestics, be fulfilled as required by Section 503 of Public Law 78?" (Perluss, *op. cit.*, p. 114, Dec. 16, 1960, also see p. 16, June 15, 1960.)

SUMMARY

It is the committee's conclusion that the policy followed by the State Department of Employment regarding the authorization of Mexican workers in a labor dispute situation was correct.

The Legislative Counsel has advised the committee that in his opinion:

> ". . . The provisions of the (Migrant Labor) Agreement and the statutes and regulations complementing and implementing it, as they additionally restrict the utilization of Mexican Nationals on the basis of the availability of domestic workers, the effects upon wages and working conditions of domestic workers by such utilization, and similar factors, may nevertheless be construed to further limit the authority to make referrals (of Mexican Nationals)."[90]

Furthermore, it is clearly evident that the State Department of Employment serves only as an agent for the U.S. Secretary and Department of Labor in their administration of the Mexican National program. And the Secretary of Labor had indicated his approval of the position taken by his agent (the State agency).

1962 AMENDMENTS TO ARTICLE 22

Upon the mutual agreement of the Governments of the United States and Mexico, Article 22 of the Migrant Labor Agreement was amended as of February 1, 1962. Its self-explanatory provisions follow.

"ARTICLE 22

"STRIKES OR LOCKOUTS

"(a) No Mexican workers shall be assigned to fill any job to which referrals of United States workers would be prohibited under regulations or policies of the United States Department of Labor governing the referral of workers to jobs involved in strikes or other labor disputes.

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[90] "Mexican Nationals in Agricultural Labor"—Legislative Counsel Opinion No. 4122, June 28, 1960, p. 9. See Appendix B, Exhibit 20, page 111, for entire opinion.

"(b) In the event of a strike or lockout of fifty (50) percent or more of the domestic agricultural workers in the employ of an employer (including a member of an association) at any agricultural establishment where Mexican workers are employed, the Secretary of Labor shall suspend the employer's authorization, and withdraw the Mexican workers employed by the employer.

"(c) In the event of a strike or lockout of less than 50 percent of the domestic agricultural workers in the employ of an employer (including a member of an association) at any agricultural establishment where Mexican workers are employed, the Secretary of Labor may suspend the employer's authorization, in accordance with such criteria as he may prescribe, and may withdraw the Mexican workers employed by the employer.

"(d) In the event of a strike or lockout at any agricultural establishment where Mexican workers are employed, the Secretary of Labor will suspend the employer's authorization in whole or in part and may withdraw the Mexican workers employed by the employer whenever he determines that the health or security of the Mexican workers is threatened because of the strike or lockout or when he finds that the public interest or safety require such action.

"(e) For the purposes of paragraphs (b) and (c), the determination by the Secretary of Labor as to whether more or less than 50 percent of the domestic agricultural workers are on strike or locked out shall be made on the basis of those domestic agricultural workers engaged in, or normally employed interchangeably in, the work performed by the striking or locked out workers and the removal of Mexican workers, when required by paragraph (b) or (c), shall be from such work.

"(f) In the event an authorization is suspended or revoked pursuant to this Article, the Secretary of Labor shall make special efforts to transfer such workers to other agricultural employment and give them priority in contracting over all other Mexican workers. If no transfer can be arranged, the work contracts shall be terminated and the workers returned to the reception center. The employer's obligation under Article 10 of the work contract shall apply only to the period beginning with the day after the Mexican workers' arrival at the place of employment and ending with the day the work contract is terminated under this Article.

"(g) For the purposes of this Article an 'agricultural establishment' includes all of the places of employment operated by the employer as an integrated or single operation. Factors to be considered in the determination of which places of employment comprise an integrated or single operation shall include but not be limited to operations in which the employer, as a general practice, employs his workers interchangeably in several places or where the employer uses the same equipment at the several places, maintains common supervisory personnel, single payroll records, single cost accounting records, or other management and operating practices which would tend to indicate that the several places are in fact part of a single economic complex, whether or not such places of employment are contiguous.

"(h) In view of the interest of the Mexican Government in the problems of strike or lockout, the two Governments shall exchange information concerning situations which might arise, and on its part, the Government of the United States agrees to give full consideration to the points of view and the recommendations of the Government of Mexico. The Secretary of Labor, however, shall not be required to await presentation of information, points of view or recommendations by the Government of Mexico before removing Mexican workers in accordance with this Article.

"*Explanatory note: The purpose of the amendment contained in paragraph (a) of Article 22 is to achieve consistency between the policy with respect to the assignment of Mexican workers and the regulations of the Department of Labor governing the referral of domestic workers in labor dispute situations.*

"*The amendments contained in paragraphs (b), (c), (d), (e) and (f) prescribe specific conditions which require the removal of Mexican workers and confer authority upon the Secretary of Labor to prescribe other criteria for the suspension or revocation of an authorization in the event of a strike or a lockout. While the interests of both Governments are recognized, responsibility is vested in the Secretary of Labor to determine whether the facts in a particular strike or lockout warrant such action.*"

STATE CONCILIATION SERVICE

Section 65 of the California Labor Code provides for a State mediation service under the Department of Industrial Relations.

> "The department may investigate and mediate labor disputes providing any bona fide party to such dispute requests intervention by the department and the department may proffer its services to both parties when work stoppage is threatened and neither party requests intervention. In the interest of preventing labor disputes the department shall endeavor to promote sound union-employer relationships. The department may arbitrate or arrange for the selection of boards of arbitration on such terms as all of the bona fide parties to such dispute may agree upon. Records of the department relating to labor disputes are confidential; provided, however, that any decision or award arising out of arbitration proceedings shall be a public record."

Under authorization granted by these provisions, the Department of Industrial Relations created the State Conciliation Service.

During the period January 1, 1960, to November 1, 1962, the State Conciliation Service was requested to offer its services in approximately 70 farm labor disputes in California. Although it attempted to contact the disputing parties in each of these disputes and offer its services in assisting or promoting negotiations, success was limited. ". . . (M)ost of these disputes proved to be impervious to mediation."[91] Of the 70 disputes involving 6,675 workers, the conciliation service assisted in securing six partial or total agreements affecting 335 employees.

The effectiveness of conciliation has been historically and inherently stunted as a means of reducing the number or duration of labor disputes in agriculture.

> "There is actually very little formal collective bargaining in agriculture as it relates to field work. It takes at least two to make a bargain just as it does to make a quarrel. It most agricultural labor disputes there is actually only one disputant, the other potential disputant does not recognize that the other disputant exists, or recognizes him merely as an existing nuisance who under no circumstances is to be bargained with. . . . In many instances it has been found that growers have been quite willing to accede to the demands and just grievances of the workers, but equally unwilling to recognize the union which

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[91] *California State Conciliation Service, 1960,* Annual Report, Department of Industrial Relations, mimeographed, June, 1961, p. 9.

claimed to represent the workers in whose behalf the demands were being made. . . . This attitude on the part of some growers makes conciliation extremely difficult, by virtue of the fact that one of the parties has requested intervention, while the other party prefers to have nothing to do with the situation. . . . Until growers are ready to recognize the existence of a union in agriculture, conciliation will continue to operate merely as a liaison between the warring parties.''[92]

STATE DIVISION OF LABOR LAW ENFORCEMENT

Several provisions of California's Labor Code require specific employer behavior in labor dispute situations. These sections are:

§209—Unpaid wages owed workers out on strike are due and payable on the next regular payday. No abatement or reduction from amount due striking employees shall be made. Deposits or other guarantees required by employer from employees for faithful performance of work shall be returned.

§921—Promises made between any employee or prospective employee and his employer as to joining, remaining in, or withdrawing from labor organization is contrary to public policy and does not afford a basis for court relief against either party who breaks such a promise.[93]

§922—Declares it a crime to coerce an agreement not to join, or to join, any labor organization as a condition of securing or continuing employment.

§923—States public policy as to the workman's full freedom of association to negotiate terms and conditions of his employment and full freedom from interference of employers of labor in concerted activities for collective bargaining or other mutual aid or protection.[93]

§970—Declares it a crime to influence, persuade, or engage workers to change from one place of work within or without the State to another by false representation of (a) kind, character, or existence of work, (b) duration of or pay for work, (c) sanitary or housing conditions related to work, (d) the existence of any "strike, lockout, or other labor dispute."

§971—Violation of §970 is punishable as a misdemeanor.

§972—Violation of §970 imposes civil liability for double damages resulting from such misrepresentations.

§973—All advertising for persons to work at any establishment while a "strike, lockout, or other trade dispute" is in active progress shall explicity mention such labor disturbance and shall carry the name of the advertiser and his principal, if any. The appearance of his name is prima facie evidence as to person responsible for the advertisement.

§974—Violation of §973 is punishable as a misdemeanor.

§1641—No private employment agency shall send an applicant to an establishment where "a strike, lockout, or other labor trouble" exists without (a) notification of such conditions, and (b) entering a statement of such facts upon the applicant's receipt.

§1696—No farm labor contractor shall (1) make any misrepresentation in his application for a license, (2) make to any person false representations concerning terms, existence, or conditions of employment, (3) send or transport any worker to any known place where a "strike or lockout" exists without notifying the worker of such conditions, and (4) commit any act, or cause any act to be done, in his capacity as a labor contractor which constitutes a crime involving moral turpitude.[94]

The State Division of Labor Law Enforcement, which is headed by the Labor Commissioner, is responsible for the enforcement of the Labor Code provisions (Lab. C. Sec. 95). During the 1960-62 period, this division conducted numerous investigations of alleged violations of the sections outlined above. There were, however, few formal charges of law violations placed. The problems of normal labor law enforcement and investigations are compounded by the fluidity of the seasonal farm work force and by the fact that often the charges and countercharges exchanged between labor contractors, farmers, workers, the unions, and even occasionally private employment agencies, usually precluded clear determinations of the facts. Generally, on-the-scene corrective actions were taken by the division's compliance personnel when suspected law violations were detected, the alleged violators were warned, and any workers involved were informed of their rights.

RECAPITULATION OF CALIFORNIA FARM LABOR DISPUTES—1960-1962[95]

There are two facets of farm labor disputes: the first, those factors which relate to the labor-management issues in labor unrest; the second, those aspects which are peculiar to the industry involved.

LABOR-MANAGEMENT ISSUES

There were 158 alleged labor disputes reported on California farms during the 1960-1962 period. All of these disputes were investigated by the California Department of Employment, as it carried out its administrative responsibilites under the Wagner-Peyser Act, and 146—or 92.4 percent—were determined to be bona fide.[96] A majority of the disputes occurred in 1960—92, or 63 percent of the disputes during the three-year period. In 1961—47 farm labor disputes occurred, while only seven disputes were called in 1962. The reasons for the sharply decreasing trend of farm labor agitations probably lies in the withdrawal of financial support extended during late 1959 and 1960 by the National Executive Council of the AFL-

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[92] Bowers, Glenn, Supervisor, and staff members, State Conciliation Service, "Conciliation and Labor Disputes," *Agricultural Labor in the San Joaquin Valley,* Final Report and Recommendations, March 15, 1951, Sacramento, pp. 286-8.

[93] These statutory provisions have been held not to preclude promises to join independent labor organizations, closed or union shop contracts, or concerted activities to obtain such contracts, and they do not place on employer an affirmative duty to bargain, *Petri Cleaners, Inc.* v. *Automotive Employees, etc., Local No.* 88 (53 Cal. 2d 455), and do not affect propriety of closed or union shop agreements and concerted activities to obtain such agreements, *Messner* v. *Journeymen Barbers, etc., International Union* (53 Cal. 2d 873).

[94] Portions in quotes above are direct quotations from the specified Labor Code section.

[95] The following is based primarily upon unpublished data gathered by the California Department of Employment, including "Log of Alleged Labor Disputes—1960, 1961, and 1962." Material for 1962 applies only through November 1 of that year.

[96] An alleged dispute is considered bona fide if it falls within the meaning of Wagner-Peyser referral Regulation 602.2 (b) and/or the meaning of Section 1262 of the California Unemployment Insurance Code which prohibits the payment of unemployment compensation benefits to an individual who left his work because of a labor or trade dispute.

CIO to the Agricultural Workers Organizing Committee although dogged resistence to unionization by California's farm employers undoubtedly also contributed to the lessening of AWOC's effectiveness.[97]

WORKERS INVOLVED

During the three-year period a total of 10,447 farm employees were working on farms that became involved in labor strife. This represents an average of nearly 72 employees per dispute and serves as the first in a dramatic series of contrasts to the wave of disputes which swept across California agriculture during the 1930's. Although in the decade 1930-39 there were virtually the same number of farm labor disputes in the State as from 1960 through 1962—149, there were during the '30's over 10 times the number of workers involved—127,000, or an average of over 850 per dispute.[98]

Of the farm workers employed on ranches which became involved in the 1960-62 disputes, about 60 percent—6,096—were domestic laborers and 40 percent—4,351—were contracted foreign nationals, primarily Mexicans imported under the provisions of P.L. 78. Even though these are in absolute terms substantial numbers of laborers, the employees actually involved in disputes were relatively insignificant when compared to the State's farm employment totals. In 1960, the peak numbers of temporary hired domestic farm workers and Mexican Nationals employed at any one time were, respectively, 195,000 and 76,000. The numbers of agricultural employees involved in farm labor dispute situations that year were 3,350 domestic and 238 foreign. The domestics working on farms which were struck, then, comprised only 1.7 percent of the peak number of seasonal domestics at work. And only three-tenths of 1 percent of the peak number of braceros used were on farms which were involved in labor disputes in 1960. In 1961, the percentage of domestics involved dropped to 1 percent (2,076 of a peak of 205,000). The percentage of Mexican Nationals increased, however, to 5.4 percent of the peak number employed at one time (3,593 of 67,000). In 1962 the percentage of domestics at work on ranches that were struck sank to four-tenths of 1 percent of the year's highest number of seasonally employed domestics (670 of 182,000) and, braceros, seven-tenths of 1 percent (520 of 75,000).

Although there were more disputes in 1960 than in 1961—92 as compared with 47, considerably more domestic and foreign farm employees were involved in 1961—3,588 in 1960 v. 5,669 in 1961. In 1962, the total number of workers involved tailed off to slightly less than 1,200. In each succeeding year, on the other hand, the average number of workers involved per farm labor dispute increased—39 in 1960, nearly 121 in 1961, and 170 in 1962. The obvious conclusion from these data is that the union has increasingly concentrated their activities on the larger farm employer (and on the larger farm, as shown below). Initially, AWOC ignored some portions of the organizing tactics historically used in California's agriculture, perhaps purposefully.

> "A study of agricultural labor and the disputes in which it has been involved leads one to the conclusion that strikes have been, and are, the largest and most prevalent in the crop areas where farming has been highly specialized, intensive, *and large scale,* and where growers have depended largely upon *large supplies* of seasonal labor and much nonresident labor for short harvest period."[99]

Although much of this pattern was again repeated (*i.e.,* union efforts directed to the specialized farms, intensive crops, and the seasonal workers), in 1960 an all-out attempt was made to drive the wedge of unionization into the agricultural phalanx through the medium-sized growers rather than the larger farm operations. Whereas in the 1930's each of 44 of the 149 labor disputes involved 1,000 workers or more, there was only one dispute affecting a thousand workers or more from 1960 through 1962. After 1960, however, the pattern of attempted unionization returned increasingly to an emphasis on the huge "factories in the field."

Not all employees of farms which were the scene of labor disputes were directly affected by the disputes. Of the 6,096 domestic laborers who were employed at the start of labor unrest during the three-year period, 3,958—65 percent—walked off the job. And only 53 percent of the foreign nationals involved—2,315 of a total of 4,351—were removed by the United States or Mexican Governments because of dispute conditions.

Measuring trends in the effectiveness of the disputes and the solidarity of workers in terms of the percentage of employee walkouts or removals, there has been a great weakening in the union's position. In 1960, 78.4 percent of the domestic workers employed on farms where labor disputes began walked off the job because of the dispute (2,626 of 3,350). Nearly 63 percent of the foreign contract workers were also removed from farms that year because of labor disputes (149 of 238). In 1961, these ratios fell to 54 percent (1,122 of 2,076) and 57 percent (2,052 of 3,593) respectively. And in 1962, just as the number of disputes indicates an almost total collapse of the current unionization effort, these ratios of worker solidarity and/or union strength conclusively indicate the drive's enfeeblement by falling to 31.3 percent (210 of 670) and 21.9 percent (114 of 520).

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[97] Although the Teamsters, the United Packinghouse Workers of America—AFL-CIO, and the National Agricultural Workers Union were all involved in on-the-farm labor disputes, the vast preponderance of farm disputes were called by AWOC.

[98] Bowers, Glenn, *op. cit.,* p. 285.

[99] *Ibid.,* p. 285, emphasis added.

DESTRUCTION OF MEXICAN NATIONAL PROGRAM VIA DISPUTES

One of the most commonly held beliefs concerning organized labor's reasons for initiating the series of farm labor disputes in California during the 1960-62 period, was its desire to summarily kill the Mexican National program. The allegation was vigorously denied by AFL-CIO representatives.

> ". . . (AWOC's) objective is not to prevent the importation of Mexican Nationals. Their objective, as has been stated today . . . is to get better conditions and get other jobs and get the job done as soon as they can, so I think you will assume a different objective from the purpose of strikes." (Scully, Charles P., Counsel, California Labor Federation, AFL-CIO, p. 113, June 15, 1960.)

The Agricultural Workers Organizing Committee (AWOC), though, had listed the destruction of the Mexican National program as one of its goals.

> **Senator Cobey**: What concerns some of the growers, Mr. Smith, is the feeling your organization is going to confront them with impossible demands for purposes of keeping labor disputes in existence and thereby squeezing out the necessary nationals, so to speak.
>
> **Mr. Smith**: I don't think asking for a dollar and ten cents a bucket in the cherry harvest or a dollar and a quarter in the apricot harvest we have asked unreasonable conditions. I don't think any of the growers will say that is an unreasonable condition.
>
> **Senator Cobey**: There has been a situation where you allowed the Mexican Nationals, allowed is a poor term, where Mexican Nationals have worked with your people in the harvesting of crops?
>
> **Mr. Smith**: No, there's been no situation in which I know, where we have made a settlement where Mexican Nationals have been used.
>
> **Senator Cobey**: Do you organize the Mexican Nationals?
>
> **Mr. Smith**: No, we do not. I don't think it would be ethical to organize Mexican Nationals when one of the avowed purposes of the organization, eventually we hope to do away with the program if a situation is brought about whereby the natural sources, the pay of the domestic worker would rise to such a position it would attract and retain domestic workers. The supplemental labor would not be necessary. So I don't think it would be ethical to organize a group of people when, in effect, you're trying to take their work away from them.
>
> **Senator Cobey**: Up to now, none of your settlements or arrangements with any of the employers involved has involved joint use of national Mexicans along with your people?
>
> **Mr. Smith**: No, there's been no such arrangement made. (P. 97, June 15, 1960.)

Labor dispute data might be interpreted to lend weight to this theory in that AWOC particularly picked bracero-dependent crops to strike in 1961 and 1962, especially the strike against the Imperial Valley's winter lettuce industry in early 1961. Over 63 percent of the workers on struck farms in 1961 were contract foreign nationals, and 43.7 percent in 1962. However, the many disputes instigated by AWOC during 1960 strongly indicate that, at least initially, this was not the union's intent. That year only 6.6 percent of affected workers were foreign.

FARM LABOR DISPUTE ISSUES

The demand for higher wages was the overwhelming dispute-causing issue in California's farm labor disputes from 1960 through 1962—in nearly 65 percent of the 146 bona fide disputes. Increased wages, union security, and improved working conditions was the next most demanded condition for ending disputes (18.5 percent), and a union contract with higher rates of pay was third (12.3 percent). The balance of demands at issue (about 5 percent) were (a) signing a union contract, (b) increase wages and rehire strikers, and (c) rehire strikers. Initial attempts were made in early 1960 to negotiate with farm employers (both labor contractors and farmers) to secure recognition of the union as the bargaining agent for the workers and to obtain higher wage rates. The employers' vigorous opposition to both demands resulted in the union's dropping its insistence on formal recognition and limiting its demands almost wholly to the issue of wages. In its activities in 1961 and 1962, however, AWOC again changed tactics, and the most common demands were (a) higher wages, union security, and improved working conditions, and (b) a union contract with increased pay rates.

CONTENDERS

As mentioned previously, the Agricultural Workers Organizing Committee—AFL-CIO, was the principal labor organization involved in the farm worker organizational drive during the 1960-62 period. More often than not, its overt actions were directed at the farmer or landowner himself—in 93 of the disputes, 63.7 percent. Often when the farmer was using a labor contractor, the dispute would involve both farmer and contractor—in slightly over 25 percent, or 37, of the disputes. In 14 instances a farm labor contractor was the sole contender—9.6 percent of the disputes.

CROP ACTIVITY STRUCK

The harvest, as might be presupposed, was that farm activity which the union struck in over 95 percent of the disputes. Although most farm food crop operations cannot be delayed without loss, harvest time is the most crucial. Particularly in many tree fruit and vegetable crops, 12 to 24 hours can spell the difference between a successful harvest and the loss of a whole year's investment of work and money. With literally the clock's minute hand on its side, a union assumes a very strong bargaining position by creating a dispute during the harvest period. Such actions, however, are certain to completely alienate even the most worker-conscious and sympathetic farm employer. This is, perhaps, a major reason for the almost complete lack of success by the unions in gaining agricultural employer recognition. In most industries they have attempted to organize, labor unions have found employers who, although not cheerful about the idea, have nevertheless been willing to sit down and negotiate with union representatives. For all intents and purposes, this type of employer does not exist in California agriculture.

FARM LABOR DISPUTE OUTCOMES

To the best of the committee's knowledge, only three formal contracts were signed between labor organizations and farm employers as the result of the 146 labor disputes in California from 1960 through 1962. Informal agreements were reached in four other disputes. Although complete data is not available for 1961 and 1962, in approximately 17 disputes in 1960 some form of negotiations took place between the union and farm employer.

Although organized labor was unsuccessful in gaining formal or informal recognition, it fared somewhat better in achieving, initially, wage rate increases—in 21 of the 92 disputes in 1960. However, wages were raised in only four of the 54 disputes in 1961 and 1962. Most disputes—104, or 71 percent—ended either with the union abandoning its picket lines during the harvest or the crop season ended with no ground relinquished by either contestant.

There is a good deal of controversy concerning the effect of the union's activities, particularly in 1960, on wage rates. AWOC was quick to claim credit for wage increases both within and without the commodity groups in which it was active. Growers, conversely, tended to discount the union's ability to influence pay rates. Representatives of governmental agencies were anxious to avoid the appearance of taking sides by ascribing credit to either of the warring camps. And as a very practical matter, so many factors can contribute to wage rate increases that it *is* difficult to attribute to each specific potential cause its just amount of credit (*e.g.*, stiffening at both State and federal levels the previously loose administration of the Mexican National program; changing piece rates as crops move from the first picking into the second, third, and fourth pickings; etc.). Wage rate data on those crop activities in which the union was active, however, submitted by the State Department of Employment at the committee's request, together with unpublished material relating to labor dispute determinations compiled by the department, all seem to strongly indicate that rate increases were due to the union's activities in many instances (see Figure 16).

AGRICULTURAL FACTORS IN LABOR DISPUTES

During the 1960-62 period all of the farm labor disputes in California centered about the fruit, vegetable, and melon industries. There were no recorded strikes in either livestock and poultry or in the field crops (cotton, sugar beets, potatoes, hay, wheat, dry beans, etc.). This follows the general crop pattern of disputes during the 1930's.

CROPS AFFECTED

"The crops chiefly affected were:
"Vegetables with 14 strikes
"Peas with 16 strikes
"Citrus with 7 strikes
Peaches with 14 strikes
Lettuce with 7 strikes
Cotton with 5 strikes."[100]

The crops struck during the late 1940's, however, varied considerably.

> "In the 1930-39 period, the strikes in cotton, potatoes, asparagus, sugar beets were relatively insignificant. In recent years (1947-50) these crops have been the most highly frictionalized of all of California's crops. They have become so as they have taken on the same pattern of operations as those in which strikes were most frequent in the earlier period."[101]

The pattern of operations which historically has lent itself to labor dispute situations remains today the same. The crops, however, have changed. This is particularly true with regard to cotton, sugar beets, and potatoes—all crops which were heavily dependent on large supplies of seasonally hired labor for harvesting, which were farmed by intensive, large scale, and highly specialized techniques. The farming techniques have remained constant. If any changes have been made in cropping methods, in fact, they have reemphasized these characteristics. The great change which has occurred is "the machine." The hand labor demands in all three of these field crops has virtually disappeared. Organized labor's instinct for agriculture's jugular vein has not changed, however. Most recently the unions have returned to the orchards, vegetable fields, and vineyards.

The crops, by year, most frequently suffering labor disputes and the number of disputes in each, follow:

1960—Olives 31, peaches 19, pears 15, tomatoes 9, grapes 6, cherries and bushberries 3 each, plums 2, and cauliflower, celery, nectarines, and prunes 1 each.

1961—Lettuce 18, cherries 12, brussels sprouts 8, asparagus 2, and cabbage, nectarines, oranges, olives, peaches, peas, and strawberries 1 each.

1962—Cucumbers and cantaloupes 2 each, and asparagus, lettuce, and tomatoes 1 each.

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[100] *Ibid.*
[101] *Ibid.*

FIGURE 16

Farm Wage Rates, Selected Crop Activities, California, January 1 to October 29, 1960

Crop	Activity	County	Total man-weeks involved[1]	Wage at start of season and subsequent changes in rate[2]	Wage findings[3]	
Apricot	Harvest	Yolo	2,350	May 28, $.90-1.00 per hour; June 4, $1.00 per hour; June 11, $1.25 per hour	June 15:	$1.25 hour
Celery	Cut-pack	Ventura	15,450	Jan. 2, $.85-.90 per hour; July 23, $1.00 per hour		
Peaches	Thin	San Joaquin	10,450	Apri. 16, $1.00-1.25 per hour—no change	June 16·	25 minutes or less $.70, .75, 1.00, 1.25/tree 26-40 minutes $1.00/tree 41-60 minutes $1.25/tree Over 60 minutes $1.50/tree, 1.25/hour
Cherries	Pick	San Joaquin	26,300	May 7, $1.00-1.10/bkt.; May 14, $1.00-1.25/bkt; June 4, $1.10/bkt	May 26:	$1.10/16 qt. bucket
Peaches	Pick	Stanislaus	60,000	July 23, $.15-.17/box; August 13, $.17/box; August 20, $.17-.20/box	August 15: September 7:	Selective, 1st pick $.17/40# box, .085/20# bkt, .13/30# bkt; 2nd pick and scrap $.20/40# box, .15/30# bkt. Nonselective, $.12/30# picking container, $.16/40# picking container, $3.50/880# bin, 8.00/ton, other containers in proportion
Peaches	Pick	Tulare	39,000	May 21, $1.00 hour; June 18, $1.10 hour; August 20, $1.10/hour, .15-.17/box	June 22:	$1.10 hour
Peaches	Pick	San Joaquin	15,700	July 30, $.12-.15/box; August 6, $.15-.18/box; August 13, $.17/box	August 25:	$.17/40# box pick, grade, $.15/40# box orchard run, $.08/20# bucket orchard run
Peaches	Pick	Sutter	21,900	July 23, $1.00/hour, .14-.25/box; July 30, $1.10-1.25 per hour; August 20, $1.25/hour, .17-.24/box	August 17:	Selective picking $.17, .18, .19, .20, .24/40# box $.085, .09, .095, .10, .12/20# bucket $4.25, 4.50, 4.75, 5.00, 6.00/1,000# bin
Peaches	Pick	Yuba	5,420	July 23, $1.00/hour, .14-.25/box; August 6, $1.25/hour, .14-.25/box; August 20, $1.25/hour, .17-.24/box		
Peaches	Pick	Butte	4,520	July 23, $1.25/hour, .14-.25/box; August 20, $1.25/hour, .17-.24/box; Sept. 20, $1.25/hour, .16-.24/box		Nonselective picking $1.25/hour, .16/40# box, .12/30# bag, $4.80/1,200# bin, $5.60/1,400# bin, $8.00/ton
Peaches	Pick	Merced	18,050	July 9, $1.00-1.10/hour, .15/box; July 30, $1.00-1.25/hour, .15/box; August 13, $1.00-1.25/hour, .15-.18/box; August 20, $.16-.20/box	August 19:	$.16, .17, .20/40# box
Bushberries	Pick	Stanislaus	13,000	May 28, $.40/crate; June 18, $.50-.60/crate; July 2, .50-.75/crate	July 13:	B.E.S. determination $.60/14# crate
Plums	Pick	Sutter	1,250	June 25, $1.00-1.10/hour; July 2, $1.00-1.25/hour		
Plums	Pick	Tulare	20,700	May 28, $1.00/hour; June 18, $1.10/hour	June 22:	$1.10 hour
Pears	Pick	El Dorado	6,700	August 6, $1.10/hour, .20/box; August 13, $1.10/hour, .18/box; August 20, .20/box	August 26:	$.20/40# box
Pears	Pick	Mendocino	6,300	August 13, $1.10/hour, .18-.20/box; September 3, $1.10-1.25/hour, .18-.20/box		
Pears	Pick	Yuba	5,600	July 16, $1.10/hour; July 30, $1.10/hour plus .10/box, .30/box		
Pears	Pick	Sacramento	11,250	July 9, $1.15-1.25/hour, .23/box; July 23, $1.25/hour, .23/box	August 5:	Box pick $1.25/hour, .23/50# box Bulk pick $5.50/1,000#, $11.00/ton
Pears	Pick	Lake	8,000	August 13, $1.25/hour, .20/box; August 20, $1.25/hour, .20-.23/box		
Prunes	Pick	Sutter	21,040	August 20, $1.25/hour, .25-.30/box—no change		
Grapes	Harvest	San Joaquin	56,700	August 27, $1.25/hour, .07/bkt, .14/box; October 22, $1.20/hour wine, $1.30/hour Pack, .08/bkt .16/box	October 19:	Pick-field pack grapes Tokays .30/28# box Alicantes and Carignanes $.21, .23, .26/36# box, $1.30/hour Zinfandels and other varieties $.28/36# box, $1.30/hour Pick wine grapes $.08/25# bkt, $6.40/ton, .16/50# box, $1.20 hour

FIGURE 16—Continued

Farm Wage Rates, Selected Crop Activities, California, January 1 to October 29, 1960

Crop	Activity	County	Total man-weeks involved[1]	Wage at start of season and subsequent changes in rate[2]	Wage findings[3]	
Grapes	Harvest	Stanislaus	17,700	August 27, $.11-.12/box; September 3, $.10-.12/box; September 10, $.11-.12/box; September 17, $.11-.14/box	October 19:	Picking into boxes $.13, .14, .25/50# box Picking into gondolas $5.20, 5.[illegible], 6.00/ton Other containers in proportion
Tomatoes	Hoe	Stanislaus	4,800	April 30, $1.00 per hour—no change	May 16:	$1.00 hour
Tomatoes	Pick	San Joaquin	77,550	July 30, $1.00/hour; August 20, $1.00/hour, .12-.18/box; October 1, $.12-.18/box	September 27:	Schedule $.12-.18/50# box Nonschedule $.15/50# box
Tomatoes	Pick	Sacramento	26,040	August 20, $.11-.18/box; October 5, $.14-.25/box; October 15, $.17-.20/box; November 12, $.17-.22/box	October 4:	1st pick rounds and red tops $.17/50# box 2nd pick $.17/50# box
Tomatoes	Pick	Sutter	13,540	August 20, $.11-.18/box; October 8, $.17/box		
Tomatoes	Pick	Tulare	11,700	June 4, $1.00/hour; June 25, $1.00-1.10/hour; July 8, $1.10/hour		
Olives	Pick	Tehama	2,800	October 8, $1.50-2.50/box; October 15, $1.25-1.50/box		
Olives	Pick	Tulare	11,800	September 24, $1.25-2.25/box		
Olives	Pick	Butte	3,800	October 8, $1.00-1.25/box; October 15, $.03/lb.; October 22, $1.25/box; October 29, $1.25-1.50/box		

[1] Total man-weeks from Department of Employment records and "California Weekly Farm Labor Report, DE 881," on basis of reported employment data.
[2] Wage at start of season and subsequent changes from Department of Employment records and "California Weekly Farm Labor Report, DE 881," on basis of reported wage rates.
[3] Wage finding rates from notices of wage finding issued by the Department of Employment, and based on wage surveys.
SOURCE: California Department of Employment.

As mentioned above, all of the 146 farm labor disputes during 1960-62 were directed against harvesting operations excepting seven: two in peach tree thinning in 1960, and one each in cauliflower tieing (1960), tomato hoeing (1960), nectarine thinning (1961), peach thinning (1961), and cantaloupe packing (1962).

ACREAGE AFFECTED

In 1960, the union did not direct its activities against the largest farms. The average acreage of the struck establishments was just over 100 acres that year.[102] However in 1961, the average acres per dispute rose to 132.3 and in 1962, it jumped to 607.

Although the average numbers of workers and acres affected per dispute rose each succeeding year, the total number of acres affected decreased each year. In 1960, a total of 7,940 acres of cropland was directly affected by farm labor disputes; 6,217 in 1961, and 2,429 in 1962.[102] The three-year total was 16,586 acres.

AFFECTED CROPS BY AREA

The vortex of labor strife in California's agriculture during the 1960-62 period was the northern San Joaquin and the Sacramento Valleys.[103] A three-year total of 67 disputes was conducted in the San Joaquin Valley, 35 in the Sacramento Valley, 21 in the Desert Area, 10 on the Central Coast, 9 on the North Coast, and 2 on the South Coast.[104]

San Joaquin Valley—Forty-seven strikes were conducted in 1960, affecting peaches, cherries, tomatoes, nectarines, grapes, olives, bushberries, plums and cauliflower. Eighteen of these disputes were in Tulare County, 16 in Stanislaus, and 13 in San Joaquin County. In 1961, there were 14 disputes, affecting cherries, olives, nectarines, and peas. Thirteen of these were in San Joaquin County. In 1962, four strikes, affecting asparagus and cucumbers, were held in San Joaquin County.

Sacramento Valley—Thirty-three farm labor disputes occurred in 1960, in olives, peaches, pears, tomatoes, plums, and prunes. There were eight disputes in Tehama County, seven in Butte, six in Sacramento, and five in Sutter. In 1961, only two strikes, one each in cherries and peaches were conducted, and there were none in 1962.

Desert Area—There were no strikes in either 1960 or 1962. In 1961, however, 21 disputes occurred, principally in lettuce although cabbage and asparagus were also involved. All of these disputes were in Imperial County.

Central Coast—No disputes in 1960. Nine strikes, eight of them in Santa Cruz County brussels sprouts, in 1961. One strike, of a lettuce and tomato ranch, in 1962.

North Coast—There were no disputes in 1961 or 1962. Nine disputes occurred in 1960, all affecting pears, of which eight were in Lake County.

South Coast—One farm labor dispute in 1960 in celery, one in 1961 in oranges, and none in 1962.

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[102] The acreages involved in 13 disputes during 1960 and 3 disputes in 1962 are unknown. Only 79 disputes, therefore, have been used in estimating 1960 average acreages, and 4 disputes for the 1962 average.

[103] The Agricultural Workers Organizing Committee's headquarters were, and still are, in Stockton, San Joaquin County.

[104] See Figure 13, p. 26, Part I, for map of State with reporting areas.

SUMMARY

GROWERS' LOSSES AND GAINS

The most recent wave of farm labor disputes in California has on occasion borne severe consequences on individual farm operators. The effects of such disputes on a statewide basis, however, have been difficult to measure. Many factors bear on the successful production of food crops (*e.g.,* weather, availability of necessary labor, market prices, crop diseases, etc.). A combination of these elements is present in varying degrees in every crop planting, cultivating, and harvesting operation. Their presence normally complicates the estimates of crop loss caused by any one single factor. Evaluating the loss occasioned by farm labor disputes involves this problem particularly since ". . . losses due to labor difficulties (in 1960) were not large in relation to the total crops harvested in the State . . ." (Poulson, Harold A., Chief, Division of Marketing Services, California Department of Agriculture, p. 33, Dec. 15, 1960).

At the request of the committee, the California Department of Agriculture prepared estimates of crop losses resulting from the 92 farm labor disputes which occurred in 1960.

> "**Cherries**: We understand that very few losses occurred, except in the case of one large grower. A representative of this grower testified at your hearing on June 15, 1960, that he lost approximately $88,400 due to inability to obtain pickers.
>
> "**Apricots**: Early in the harvest season local county officials estimated that approximately 1,250 tons of apricots were lost; however, a large part of this loss resulted from causes beyond control of the producer because workers in several of the canneries, who normally process a large portion of this crop, were on strike and canners were not in a position to accept delivery for a period of time when the fruit was ripening.
>
> "**Peaches**: Some labor disputes occurred in the harvesting of freestone peaches for sale in fresh form and for canning. No losses from this cause were reported to us; however, one grower with quite a large acreage of freestone peaches for canning claimed that he lost 200 tons because of his inability to obtain a sufficient number of pickers.
>
> "**Pears**: There have been some losses of Bartlett pears directly due to labor disputes which were serious to the individual growers affected, but not great in relation to the total crop harvested. In one county of the State, one source of information indicates that between 100 and 200 tons were lost directly due to the inability to obtain a sufficient number of pickers at the proper time. Another report indicated that greater quantities were lost.
>
> "**Cling peaches**: We know of no substantial losses due to labor disputes in the harvesting of cling peaches for canning.
>
> "**Grapes**: Several strikes and disputes occurred in the harvesting of grapes for market and for wine making, but we understand that very few, if any, losses resulted.
>
> "**Canning tomatoes**: We know of no substantial losses due to labor disputes in the case of canning tomatoes. One grower reported that he disced under his last picking of canning tomatoes, representing approximately one-fourth of the total crop, on the grounds that he could not afford to pay the picking rate requested.
>
> "**Olives**: We know of no losses of olives." (Poulson, *op. cit.*, pp. 32-3, Dec. 15, 1960.)

The department also stated that it was impossible to estimate losses suspected to have occurred as side effects of labor disputes. These losses probably emanated from farmers' changed harvesting patterns because of wage rate and labor supply uncertainties.

> "If, in weighing these factors, the grower decides to 'strip-pick' instead of making a succession of pickings, some fruit is lost, either through excessive cullage or through being left unharvested. Elimination of 'cleanup pickings' as being uneconomical under existing conditions as he sees them, produces the same result. It is impossible to estimate such suspected losses. Some such losses occur in a normal year." (Poulson, *op. cit.*, p. 32 Dec. 15, 1960.)

Losses suffered by farmers in 1961 and 1962 due to labor strife were primarily limited to the individual growers involved. The only two possible exceptions were in the winter lettuce industry in Imperial County and in brussels sprouts in Santa Cruz County in 1961. The State Department of Agriculture indicates that although an estimated 1,290,000 cwt. of lettuce was lost in the Imperial Valley in 1961 (5,000 equivalent acres), their sources report that most of this loss was not attributable to farm labor disputes. Similarly, losses in brussels sprouts due to labor strife were not discernable on a statewide basis although individual growers may have suffered. The economic losses suffered by individual farmers, however, did not force farm employers to bargain with or recognize the farm workers' union.

ORGANIZED LABOR'S LOSSES AND GAINS

Although wage rates were increased in several crop activities, particularly in 1960, the union did not gain that element which was so vital to its hopes of succeeding where so many previous efforts had failed—employer recognition on a scale large enough to demonstrate that agriculture does lend itself to industrial union practices and procedures. And although in 1960 it appears that the farm labor movement had generated significantly widespread worker support, even this partial success was short lived. When he announced withdrawal of its financial support of the Agricultural Workers Organizing Committee, George Meany, President of the AFL-CIO's National Executive Council stated:

> " 'It has been a success not in terms of organizing but it has compelled employers to improve working conditions and raise wages,' United Press International quoted the labor chief."[105]

Although AWOC still maintains its headquarters in Stockton and some sporadic farm labor organizing activities might be expected in the future, farm employers have emerged from this latest unionization effort retaining unilateral control of farm working conditions and wage rates.[106]

GOVERNMENTAL AGENCIES' LOSSES AND GAINS

After their trial by fire during the series of farm labor disputes in the period 1960-62, and their resultant testing by the courts, the regulations of the U.S. Department of Labor and the California Department of Employment have emerged in even stronger condition than that in which they entered the period. The Secretary of Labor's regulations governing the Mexican National program's operation in labor dispute situations have received the additional stature of being incorporated into the International Migrant Labor Agreement. His Wagner-Peyser regulation relating to labor dispute referrals has been upheld by the State Supreme Court, and although it is possible that the federal courts could overturn that decision, this now seems unlikely. And even though the State Department of Employment's definition of labor dispute for farm placement operations was severely criticized, it was never formally challenged in court and has received the defacto approval of the U.S. Secretary of Labor. The State department's conclusion, also, that it could not certify to the need for Mexican farm workers under P.L. 78 when it was barred from referring domestic workers under the Secretary of Labor's Wagner-Peyser regulations, was initially accepted by the secretary and was later specifically amended into Article 22 of the Migrant Labor Agreement.

It is the committee's conclusion that probably these administrative rulings as they relate to agricultural labor disputes will not be altered short of specific directives from the legislative bodies involved.

PROPOSALS FOR FARM LABOR LEGISLATION

Neither of the disputing parties in the farm labor field has expressed satisfaction with the federal and State labor relations statutes as they apply to the agricultural industry.

The farm employers' entire position is based on the premise that agriculture is different from other industries and that the statutes and their administration must reflect this contrast.

> ". . . (W)e believe the forcing of unionization upon agriculture, either by means of economic or other pressures which may be brought to bear by professional labor organizers, or by means of compulsion through law, would be extremely harmful, grossly inequitable for the farmer, and contrary to the fundamental philosophy of collective bargaining as expressed by both the California Legislature and the Congress in statements of policy. . . .
>
> "Congress has recognized the inequities which would result from the application to agriculture of laws designed to provide protections to the individual workman in the case of industry. For this reason Congress excluded agricultural labor from the Wagner Labor Relations Act.
>
> "It seems to me that the extension of these legal powers to unions to use in forcing farmers to bargain with them completely reverses the whole basic philosophy. What happens to equity when this force is applied to individuals, meaning farmers, with a tremendous capital investment in their enterprises and thousands of dollars of cash in a crop that must be harvested within a few days' time? There is no equity and the farmer becomes a victim of legalized brute force." (Hanley, *op. cit.*, pp. 245-6, Dec. 16, 1960.)

Organized labor, however, contends that even if significant differences may have once existed between agriculture and the balance of industry, they no longer do. Agriculture, therefore, must be included within the full scope of state and federal statutes which affect the field of labor-management relations.

> "To date, in the field of agricultural labor, covering the harvesting of perishable crops, the public welfare has been virtually ignored in the successful advocacy by growers of their exemption from the great body of labor and socio-economic legislation enacted in recent decades . . . .
>
> "This, of course, is not the place for a comprehensive review of the labor and socio-economic legislation enacted in recent decades. Our point is that while the public has generally demanded such legislation for their own protection, in the field of agricultural labor, the growers, as a special interest group, have subverted the public interest as it applies to their own industry. In the field of labor and social welfare legislation, agri-

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[105] The *Sacramento Bee*, p. C-3, June 30, 1961.

[106] The Federal Government, through its administration of the Mexican National program, however, is challenging the farm employer's unchecked power in this regard by establishing, administratively, state minimum wage rates that must be paid Mexican farm workers. Additionally, the State, through the Division of Industrial Welfare's Wage Order No. 14-61 (8 Cal. Adm. C. 11500), has set minimum standards of pay and working conditions for women and minors in agriculture.

> culture has consistently advocated laissez faire policies and has been successful in securing almost complete exemption from laws which are almost universally regarded as essential to the public welfare throughout the rest of the economy . . . .
>
> "But for the future, this committee should recognize that the public welfare must take precedence over the short-sighted positions advocated by grower groups. It should bend its efforts in impressing upon fellow legislators the absolute necessity of extending to agriculture the protections demanded by the public in the field of labor and socio-economic legislation." (Pitts, *op. cit.*, pp. 104-7, June 15, 1960.)

Farm employers and agricultural representatives, on one hand, have maintained that agriculture must continue to be exempted from the provisions of the National Labor Relations Act and any like State legislation proposed; that the definition of "labor dispute" and the standards for referral and placement of workers in labor dispute situations under the Wagner-Peyser Act must be different from those of general industry; and that organized labor should be prohibited from conducting strikes during the harvest.

Spokesmen for organized labor, on the other hand, have urged that agriculture be included in the National Labor Relations Act; that a State Labor Relations act including agriculture be enacted; that the operation of the public employment system retain its equal treatment for all industry, including agriculture; and that no infringements be made of the workman's right to organize and undertake collective action in pursuit of economic and social self-betterment.

Essentially, then, that which one group seeks in the provisions and administration of federal and State law is diametrically opposed to the other group's objectives.

Other suggestions concerning farm labor dispute legislative changes have been made.

A. "The Grange proposes: . . .

> "4. The establishment of satisfactory boards by State legislative action; comprising equal representation by members directly engaged in agriculture, organizations of farm laborers; and members of state-appointed bodies, preferably one member of the State Senate, one member of the State Assembly, and one member appointed by the Governor of the State. This body to be designated authority to prescribe minimum wages, hours of labor, and other matters connected with agricultural labor.
>
> "5. Crippling strikes, when perishable crops are being harvested must be eliminated, and that the board, as outlined in paragraph 4 above, be authorized to determine the extent of the grievances; and their action on wages, hours, and working conditions be final during the period of the particular harvest at hand. That workers stay at their respective positions until the particular harvest is completed; or satisfactory replacements in labor are provided by the bargaining or authorized labor groups." (Quinn, J. B., Master, California State Grange, p. 212, Dec. 16, 1960.)

B. Compulsory arbitration of farm labor disputes as a part of a State labor relations act.[107]

C. When disputes break out during harvesting, a mandatory cooling off period which would require that the workers return to their jobs.[107]

D. Union contract with a no-strike clause and a surety bond posted by the union to guarantee that no dispute would occur and that an adequate supply of labor would be furnished.

All such suggestions, however, run counter to two of the most fundamental axioms in agricultural labor relations. Farm employers are loath to recognize even the existence of labor organizations of farm workers, much less recognize such unions for purposes of negotiation, mediation, or arbitration. Organized labor is equally adamant in insisting upon its hard-won rights to organize and to strike. Neither group is in the least disposed to move away, even ever so slightly, from its position in order to extract a compromise from the other. In a word, a head-to-head battle is fought every time these two powerful pressure groups meet, whether the meeting be in the legislative halls or on the economic front.

In contrast to the concrete and trenchant attitudes of these two parties is that of the third—the general public. There, a clear mandate concerning farm labor disputes is not only lacking, but there appears to be an actual void in public opinion. The public seems equally apathetic to the social and economic deprivation of seasonally hired farm labor, on the one hand, and to the very real danger of food in the field rotting because of labor disputes, on the other.

Agricultural labor disputants should therefore understand that their present exposed and unprotected economic positions cannot, in all probability, become protected by means of the legislative process unless this is done mutually and reciprocally. Agricultural employers are quite naturally deeply and sincerely worried about their complete exposure to the ruinous hazards of "stranger picketing," organizational strikes, and particularly harvest strikes. Labor organizations are just as genuinely concerned about the disastrous exposure of agricultural employees generally to discharge and other forms of economic reprisal caused by their exercise of the rights supposedly guaranteed to them by Labor Code Section 923. Injunctive relief may be technically available to such employees (*Elsis* v. *Evans* (1958), 157 Cal. App. 2d 399, 408-409; and *Safeway Stores* v. *Retail Clerks Assn.* (1953), 41 Cal. 2d 567, 572-573; and *International Assoc. of Firefighters, Local 1396, AFL-CIO* v. *County of Merced*, 204 A.C.A. 439); but such relief probably is too uncertain, expensive, and inadequate for the great mass of individual employees involved.

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[107] *The Sacramento Bee*, p. A-8, June 21, 1960.

If the agricultural employer is to be fully protected, "stranger picketing," organizational strikes, and harvest strikes of perishable commodities must be outlawed in whole or substantial part. But if the agricultural employee is to enjoy equally full protection, a State Labor Relations Board, similar to the National Labor Relations Board, must be established to impart the breath of life into the now largely dormant provisions of Labor Code Section 923.

But today neither side wants the other to be protected and is apparently willing to forego protection by law of its own economically vulnerable position in return for the Legislature's leaving its adversary equally exposed.

This is the present opinion among those intimately affected in this field. So long as such opinion prevails, the Legislature would appear powerless to act. Therefore, here at least, the law of the jungle must continue.

There seems little doubt that "such promise of improvement as does exist rests with longer periods and more general economic processes. There is perhaps more hope to be found in the dwindling of the agricultural labor force as farm mechanization makes giant strides and as the proportion and number of agricultural workers in the labor force continues its long-time secular decline, than in any program for the reform of the agricultural labor market. . . . Obviously, in the meantime, wherever opportunities for improvement present themselves, they should be seized. Whatever the limits of tolerance for reform, they should be exploited to the full. Secular processes takes a long time."[108]

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[108] Fisher, Lloyd H., *The Harvest Labor Market in California*, Harvard University Press, Cambridge, 1953, p. 148.

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CHAPTER VIII

FARM LABOR SUPPLY

MEXICAN NATIONAL PROGRAM

The program providing for the temporary importation of Mexican National farm workers has been examined in Part I of this report (pp. 84-125). This examination included the provisions and operation of the program, problems in its administration, the need for such supplemental farm labor, and the adverse effects caused by the program.

Following its analysis of the program's operation in California, this committee concluded:

> "This State's agriculture is still heavily dependent on hand labor; labor in short supply in the prevailing status of the farm labor market. . . . Nevertheless, it is clearly evident that a vital and irreplaceable role has been and is being played by these imported workers in supplying seasonal labor. . . .
>
> "There is little doubt that a risk would be taken by a continuation of the bracero program—a risk that farm labor users would postpone concerted and enduring efforts to solve their seasonal labor shortages by means other than availing themselves of Mexican workers. . . .
>
> "Furthermore to continue the program beyond its current expiration date without attempting to provide new means to resolve the inequities of fringe benefits afforded domestic workers as compared to braceros, assure greater control of program abuses, and alleviate the adverse effects it wreaks upon domestics, would be most unfortunate for the domestic and foreign farm workers themselves; for the vast majority of farmers who, without the economic edge provided by braceros, must compete in the same produce markets as bracero users; and for the many users themselves who have become dependent on a labor shortage solution of great and increasing political vulnerability.
>
> "The structure of California agriculture began shaping ninety years ago and was crystallized by turn of the Century. Since that time it has relied to a significant degree upon the availability of a large, mobile force of seasonal wage workers. Contemporary factors, including the continuing short supply of seasonal workers, are altering the historic structure. However, it is an evolution far from finished. The termination of the Mexican National program at this time, therefore, would be devastating to vast segments of this State's agriculture, and irreparably damaging to California's economy as a whole. . . ."

Public Law 78 (U.S.C.A. 1461), the principal implementing provision of the Mexican National program, expires December 31, 1963, unless it is specifically extended by the Congress and the President. As emphasized in Part I, the conditions of employment for braceros are significantly superior to those offered seasonal domestic workers (page 121 *et seq.*). Although some progress in remedying these adverse effects was made by the Congress in the last extension of P.L. 78, many more improvements must be made before this inequitable situation is fully resolved. What is ultimately irreconcilable, however, is California's—the wealthiest and most vigorous agricultural state—continuing dependence upon imported foreign labor.

Although the number of foreign contract farm workers used in California has been declining since 1956 (see Figure 17), in some areas and in some crops the continued availability of braceros in the immediate future is still a vital necessity (see Figures 18 and 19). This committee, therefore, favors a limited extension of Public Law 78 beyond its prospective expiration date. Our judgment, however, is cast only within the context of current necessity in California agriculture. Accordingly, this committee expresses the view that ultimate termination of the Mexican National program must be an important social and economic objective of this State and Nation.

EMPLOYMENT OF YOUTH

Many farm employers feel that California's child labor laws and regulations needlessly hinder youths' farm employment opportunities. In Part I of this report (p. 199), the committee recommended that a study be directed to identifying any unnecessary legal and regulatory restrictions hampering work opportunities for youth. No such study, however, has been made by either the legislative or administrative branches of State Government.

Such an investigation should be immediately undertaken. The employment fields considered in such a study might profitably transcend that of agriculture alone. The study scope could, as well, include other subjects (*e.g.*, school dropouts, vocational training in public schools, apprenticeship programs, juvenile delinquency, future demands on the State's labor market, preventative techniques of the public welfare program, etc.). There appears ample justification in the farm labor field alone, however, for the Legislature to direct one of its investigating bodies to pursue this subject.

FIGURE 17

Minimum, Maximum, and Average Employment of Contract Mexican Nationals California, 1951-1962

	Minimum		Maximum		Average for year		
	Mexicans	Week ending	Mexicans	Week ending	Mexicans	Percent of all workers (approximate)	Percent of all seasonal workers (approximate)
1951	10,800	1-13	36,200	10-[illegible]	18,600	5.3	15.1
1952	12,700	3-15	39,500	10-[illegible]	22,900	6.5	18.3
1953	17,[illegible]00	1-17	40,800	10-17	25,300	7.1	18.6
1954	13,500	1-23	51,200	10-2	28,400	7.9	20.1
1955	20,600	1-22	77,200	10-8	40,200	11.1	26.5
1956	26,600	1-14	100,800	9-29	50,900	14.1	33.2
1957	26,200	2-2	93,100	10-5	51,300	14.5	34.2
1958	25,800	2-15	92,400	9-27	46,600	13.6	32.0
1959	27,600	1-3	83,000	9-19	46,400	13.6	31.5
1960	27,300	3-26	74,250	9-24	41,100	12.5	29.3
1961	16,200	12-30	65,700	10-7	33,900	10.4	24.4
1962	10,100	12-29	74,200	9-22	32,200	9.8	23.6

SOURCES: Weekly Farm Labor Reports and Estimates of Agricultural Employment (Revised January 1963).

FIGURE 18

Foreign Contract Labor as a Percentage of All Seasonal Labor Used on Farms in Selected Counties, California, 1962

County	Percent foreign contract
Imperial	55.8%
Monterey	65.4
Riverside (east)	48.2
San Diego	27.7
San Joaquin	35.4
Ventura	53.8
Yolo	61.5
Orange	75.8
Santa Barbara	53.3

SOURCE: California Department of Employment.

FIGURE 19

Foreign Contract Labor as a Percentage of All Seasonal Labor Used in Selected Crop Activities, California, 1962

Crop activity	1962
Asparagus, harvest	54.4%
Lemon, harvest	81.6
Lettuce, all activities	71.4
Peaches, harvest	1.2
Sugar beets, thin-hoe	51.1
Tomatoes, harvest	79.9

SOURCE: California Department of Employment.

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APPENDIX A—EXHIBIT 2

During the course of its study, this committee held 10 days of public hearings:

November 16 and 17, 1959, in Sacramento
January 15, 1960, in El Centro
January 26, 27, and 28, 1960, in Fresno
June 15, 1960, in Sacramento
December 15 and 16, 1960, in Sacramento
February 17, 1961, in Sacramento

Transcripts of these hearings were reproduced. Upon request over one hundred copies of each were distributed within and without California. One hundred and twenty-three individuals gave testimony or submitted statements for the committee's consideration, totaling 1,527 pages of transcript and approximately 2,000 pages of supplemental data. All testimony, statements, and supplemental material was accepted by the committee only under oath.

Upon the committee's invitation, five members of the Senate Factfinding Committee on Agriculture attended the hearing in El Centro, January 15, 1960, and eight members, the Fresno hearing, January 26, 27, and 28, 1960. Numerous other legislators joined the committee at these and the balance of the hearings.

To augment the data and testimony obtained at its hearings, the committee ordered its staff to carry on a program of field investigation and research. Although both time and the committee's second comprehensive study (on California's aid to needy children program) were limiting factors, valuable data from the field were procured in the Sacramento, upper San Joaquin, and Imperial Valleys, primarily relating to seasonal farm labor supply and demand, the operation of the Mexican national farm labor program, and seasonal farm labor housing, both labor camps and private and rented dwellings.

PERSONS PRESENTING SWORN TESTIMONY VERBALLY OR SUBMITTING NOTARIZED STATEMENTS

To the Senate Fact Finding Committee on Labor and Welfare during its public hearings on California's farm labor problems:

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Amador, Richard S.
Legislative Advocate, California Teamsters Legislative Council, Sacramento
Testified: January 15, 1960

Anderson, Henry
Director of Research, Agricultural Workers Organizing Committee
AFL-CIO
Stockton
Testified: November 16, 1959

Angier, Harold
General Manager, California Grape and Tree Fruit League
San Francisco
Testified: January 27, 1960
Submitted verified statement: December 16, 1960

Arywitz, Sigmund
Labor Commission and Chief, Division of Labor Law Enforcement
State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Bartindale, Roger E.
Manager, Industrial Relations and Personnel
Coit Ranch, Inc., Mendota
Testified: January 28, 1960

Bennett, Paul
Agricultural Worker
East Mendota
Testified: December 15, 1960

Bergon, Frank
Diversified Grower
Madera
Testified: January 28, 1960

Bolger, Norman
Fruit Grower
Gridley
Testified: January 27, 1960

Boyden, E. P.
Director, Imperial County Welfare Department
El Centro
Testified: January 15, 1960

Braun, E. W., Ph.D.
Chief, Bureau of Markets, State Department of Agriculture
Sacramento
Testified: November 16, 1959

Brigham, Thomas M.
Associate Professor of Sociology, Fresno State College
Fresno
Representing: Fresno Rural Health and Education Committee, Inc.
Submitted verified Statement: January 28, 1960

Brockway, Glenn
Regional Director, Bureau of Employment Security
U.S. Department of Labor
San Francisco
Testified: November 17, 1959
Submitted Material: December 16, 1960

Brown, Robert C.
Administrative Assistant, California Taxpayers Association
Sacramento
Submitted verified statement: December 16, 1960

Bunje, Ralph B.
General Manager, California Canning Peach Association
San Francisco
Testified: January 27, 1960; December 16, 1960

Burgess, Leroy
Agricultural Worker
Bakersfield
Submitted verified statement: January 28, 1960
Testified: December 15, 1960

Carhart, Suzanne L.
Field Worker, California Migrant Ministry, National Council of Churches
Corcoran
Testified: December 15, 1960

Carr, John E.
Director, State Department of Finance
Sacramento
Testified: November 16, 1959

Clifton, Mrs. Florence G.
Chief, Division of Industrial Welfare, State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Cole, David E.
General Manager, Nutting & Hogue (Growers, Packers and Shippers)
Patterson
Submitted verified statement: January 28, 1960

Danenberg, Danny
Lettuce Grower
El Centro
Testified: January 15, 1960

Davis, Philip
Northern California Coordinator, California Farm Research and Legislative Committee
Santa Clara
Testified: January 28, 1960

Dungan, John N.
President, Tulare County Farmers Association, Inc.
Exeter
Testified: December 15, 1960

Erickson, Mrs. Edna A. (Mrs. P. A.)
Member, Fresno County Rural Health and Education Committee
Sanger
Submitted verified statement and letters: December 16, 1960

Esparza, Andrew
Agricultural Laborer
San Jose
Testified: December 15, 1960

Fahrney, O. W.
Executive Director, Tulare County Farmers' Association
Exeter
Testified: December 15, 1960

Farrell, Kenneth R., Ph.D.
Economist, Agricultural Extension Service, and Giannini Foundation of Agricultural Economics, University of California, Berkeley
Testified: November 16, 1959

Faye, Eyvind M.
Prune and Walnut Grower
Knights Landing
Submitted verified statement: December 16, 1960

Fierro, Frank
Agricultural Worker
Visalia
Testified: January 28, 1960

Finnell, Claude M.
Agricultural Commissioner, Imperial County
El Centro
Testified: January 15, 1960

Fisher, Dana B.
Farmer, Palo Verde Valley
Blythe
Testified: January 15, 1960

Fitzgerald, M. C.
Farmer and Owner, Planada Dehydrator Company
Planada
Submitted verified statement: December 16, 1960

Fransen, Nels
Attorney, Representing, Agricultural Workers Organizing Committee, AFL-CIO
Stockton
Testified: June 15, 1960

Fridley, Robert B.
Assistant Specialist, School of Agricultural Engineering, University of California, Davis
Testified: November 16, 1959

Fuller, Varden, Ph.D.
Professor, Agricultural Economics; Giannini Foundation of Agricultural Economics
University of California, Berkeley
Testified: November 17, 1959

Garrod, R. V.
President, California Farmers, Inc.
Saratoga
Submitted verified resolution and statement: December 16, 1960

Gershenson, Maurice I.
Chief, Division of Labor Statistics and Research
State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Giannini, Gabriel M.
Farmer
Coachella Valley
Verified statement presented by James J. O'Brien, Jr.: January 15, 1960

Gilbert, Ralph
Farmer, State Delegate for Imperial County Farm Bureau
Imperial
Testified: January 15, 1960

Giobetti, Leo J.
Tomato Grower; Member, Board of Directors, East Side Growers Association
Merced
Testified: January 27, 1960

Gresham, Olin R.
Superintendent of Schools, Imperial County
El Centro
Letter dated December 31, 1959 introduced into the record; January 15, 1960

Gruenhagen, W. M.
Manager of Agricultural Employment, California Division, California Packing Corporation
San Francisco
Submitted verified statement: December 16, 1960

Guajardo, Miss Rachel
Field Representative, Local 78, United Packinghouse Workers of America, AFL-CIO
Oxnard
Testified: January 27, 1960

Haggerty, C. J.
Secretary-Treasurer, California Labor Federation, AFL-CIO
San Francisco
Prepared statement presented by Walter Simcich: January 28, 1960
Letter dated February 5, 1960 presented by Walter Simcich: December 16, 1960

Hanley, Robert E.
Legislative Representative, California Farm Bureau Federation
Berkeley
Testified: June 15, 1960; December 16, 1960

Hanna, Charles
Chief, Division of Apprenticeship Standards
State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Harris, Thomas L.
Social Insurance Analyst, California Teamsters Legislative Council
Sacramento
Testified: January 15, 1960; June 15, 1960

Hart, Lewis R.
Farmer
Sebastopol
Testified: June 15, 1960

Haslam Byron E.
Program Specialist, Commodity Stabilization Service, U. S. Department of Agriculture
Berkeley
Testified: November 16, 1959

Hayes, Edward F.
Manager, Imperial Valley Farmers' Association
El Centro
Testified: June 15, 1960; December 15, 1960

Hebert, Hyland J., M.D.
Health Officer, Imperial County
El Centro
Testified: January 27, 1960

Henderson, W. Ward
Chief, Bureau of Agricultural Statistics, State Department of Agriculture
Sacramento
Testified: November 16, 1959
Prepared statement presented by Harold A. Poulsen: December 15, 1960

Henning, John F.
Director, State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Heringer, Fred
Farmer; Second Vice President, California Farm Bureau Federation
Oroville
Testified: November 16, 1959; January 27, 1960

Hernandez, Mrs. Frances
Farm Laborer and Housewife
Corcoran
Testified: December 15, 1960

Houseberg, James
Director, Agricultural Department, California State Chamber of Commerce
San Francisco
Testified: November 16, 1959; January 27, 1960

Huerta, Mrs. Dolores C.
Representing Community Service Organization
Stockton
Testified: June 15, 1960; December 15, 1960

Irwin, Willis R., M.D.
President, Imperial County Medical Society
Holtville
Testified: January 15, 1960

James, David R.
Students' Committee for Agricultural Labor
University of California, Berkeley
Testified: December 16, 1960

Jensen, Alan C.
Secretary-Manager, California Tomato Growers Association, Inc.
Stockton
Testified: December 16, 1960

Jensen, Miss Vivian T.
Secretary, Industrial Welfare Commission, State Department of Industrial Relations
San Francisco
Submitted letter: December 13, 1960

Jessup, R. Bruce, M.D.
Assistant Professor of Pediatrics, Stanford School of Medicine
Stanford University, Palo Alto
Representing the Task Force on Health Services for Seasonal Agricultural Workers, State Department of Public Health
Testified: December 16, 1960

Johnsen, Richard, Jr.
Executive Secretary, Agricultural Council of California
Sacramento
Testified: January 26, 1960

Jones, Clyde V.
Peach Grower
Ballico
Testified: January 28, 1960

Keenan, Monsignor Daniel
Coalinga
Testified: December 15, 1960

Knowles, Clive
International Representative, United Packinghouse Workers of America, AFL-CIO
Los Angeles
Testified: January 15, 1960; January 27, 1960; June 15, 1960

Krainock, Louis F.
Director, Public Information, Agricultural Workers Organizing Committee, AFL-CIO
Stockton
Testified: November 16, 1959; December 16, 1960

Lane, Daniel S.
Attorney at Law; Representing, Diversified Growers, Inc.
Stockton
Testified: June 15, 1960

Lloyd, Robert
Farmer
Winters
Testified: December 16, 1960

Lopez, Alfred
District Supervisor, Bureau of Employment Security, U.S. Department of Labor
Sacramento
Testified: January 27, 1960

Lyon, George C.
Attorney at Law; Representing Keith Mets of the Imperial Valley Farmers Association
Testified: January 15, 1960
Representing, Western Growers Association, Imperial Valley Farmers Association
Los Angeles
Testified: June 15, 1960

McAllister, Bard
Farm Labor Secretary, American Friends Service Committee
Visalia
Testified: January 28, 1960

McCaffrey, Maurice P.
Principal Counsel, State Department of Employment
Sacramento
Testified: November 16, 1959; November 17, 1959; January 27, 1960; December 15, 1960; December 16, 1960

McCullough, Father Thomas
Representing, National Catholic Rural Life Conference and Citizens Committee for Agricultural Labor
Stockton
Testified: December 15, 1960

McDaniel, Ivan G.
Attorney at Law; Representing Tulare County Labor Stabilization Committee; Agricultural Labor Bureau, San Joaquin Valley; California Grape and Fruit Tree League; Agricultural Producers Labor Committee; Council of California Growers, Ventura County; Citrus Growers of Anaheim, California; Southern California Farmers; Riverside Agricultural Association; San Gabriel Valley Labor Association; Redlands Highland Farm Labor Association; San Diego County Farmers Association
Los Angeles
Testified: June 15, 1960

McIntyre, John E.
Director, Riverside County Welfare Department
Riverside
Testified: January 15, 1960

Mehren, George L., Ph.D.
Director, Giannini Foundation of Agricultural Economics
University of California, Berkeley
Testified: January 26, 1960; February 17, 1961

Mets, Keith
Farmer; Representing, Imperial Valley Farmers Association
Holtville
Verified statement presented by George C. Lyon: January 15, 1960
Testified: June 15, 1960

Miller, J. J.
Manager, Agricultural Producers Labor Committee
Los Angeles
Verified statement submitted: December 16, 1960
Testified: January 26, 1960; January 27, 1960

Milosiavich, Chris
President, Justice for California Farmers Committee
University of San Francisco
San Francisco
Submitted verified statement: December 22, 1960

Monton, Jose A.
Agricultural worker
Bakersfield
Submitted verified statement: January 28, 1960

Moody, Glen A.
Farmer
Bakersfield
Testified: January 26, 1960

Murray, James
Attorney at Law; Acting Secretary, California Citizens Committee for Agricultural Labor
San Francisco
Testified: January 26, 1960

Nance, Douglass F.
Farmer; Chairman, Riverside County Farm Bureau Labor Committee; President, Coachella Valley Farmers Association
Thermal
Testified: January 15, 1960

Nelson, Lowell
Chief, Division of Housing, State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Nicolopulos, Thomas
Supervisor of Conciliation, State Conciliation Service, State Department of Industrial Relations
San Francisco
Testified: June 15, 1960

Norton, John R., III
Farmer
Blythe
Testified: January 15, 1960

O'Brien, James J., Jr.
Farmer; Representing, Gabriel M. Giannini
Indio
Testified: January 15, 1960

Olivares, Francisco
Agricultural Worker
El Centro
Testified: January 27, 1960

Perluss, Irving H.
Director, State Department of Employment
Sacramento
Testified: November 16, 1959; November 17, 1959; June 15, 1960; December 15, 1960

Petersen, Ted N.
Fig Grower and Attorney at Law
Merced
Testified: January 28, 1960; June 15, 1960

Petherbridge, Richard W.
Attorney at Law
El Centro
Testified: January 15, 1960

Pigg, A. G.
Farm Labor Contractor
Dos Palos
Testified: January 28, 1960

Pitts, Thomas L.
Secretary-Treasurer, California Labor Federation, AFL-CIO
San Francisco
Testified: June 15, 1960

Poulsen, Harold A.
Chief, Division of Marketing Services, State Department of Agriculture
Sacramento
Presented statement prepared by W. Ward Henderson, Chief, Bureau of Agricultural Statistics
Testified: December 15, 1960

Powers, Domer F.
Farmer
Lindsay
Testified: January 26, 1960

Quinn, J. B.
Master, California State Grange
Sacramento
Testified: December 16, 1960

Riise, I Andrew
Diversified Grower
Modesto
Testified: December 15, 1960

Roche, George S., Ph.D.
Chief of Research and Statistics, State Department of Employment
Sacramento
Testified: November 16, 1959; November 17, 1959; January 27, 1960; December 15, 1960

Rogers, Don R.
Diversified Grower
Winton
Testified: January 28, 1960

Ross, Marshall
Attorney at Law; Representing, United Packinghouse Workers of America, AFL-CIO
Los Angeles
Testified: June 15, 1960

Sadler, W. A.
Personnel Manager, Salinas Valley Vegetable Exchange
Submitted letter: December 16, 1960

Sansoni, Henry J.
Diversified Grower
Merced
Testified: January 28, 1960

Saunders, Thomas N.
Chief, Division of Industrial Safety, State Department of Industrial Relations
San Francisco
Testified: November 17, 1959

Scully, Charles P.
Counsel, California Labor Federation, AFL-CIO
San Francisco
Testified: June 15, 1960

Simcich, Walter
Research Economist, California Labor Federation, AFL-CIO
San Francisco
Presented statement prepared by C. J. Haggerty, Secretary-Treasurer: January 28, 1960
Presented letter dated February 5, 1960, by C. J. Hagerty, Secretary-Treasurer: December 16, 1960

Smith, Norman
California Director, Agriculture Workers' Organizing Committee, AFL-CIO
Stockton
Testified: January 15, 1960; January 28, 1960; June 15, 1960; December 15, 1960

Stanley, John
Farmer; President, Fresno County Farm Bureau
Del Rey
Testified: January 27, 1960

Stead, Frank M.
Chief, Division of Environmental Sanitation, State Department of Public Health; Chairman, Inter-departmental Task Force on Field Harvest Sanitation
Berkeley
Testified: November 17, 1959; December 16, 1960

Still, Rev. Douglas M.
Director, California Migrant Ministry, Division of Home Missions, National Council of Churches
Los Angeles
Testified: January 15, 1960
Submitted material: December 16, 1960

Taylor, Paul S., Ph.D.
Professor of Economics and Chairman, Institute of International Studies
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Testified: January 26, 1960

Thomas, Charles D.
Secretary-Treasurer, Imperial County Labor Coordinating Committee
El Centro
Testified: January 15, 1960

Thompson, Leonard V.
President, Lodi District Grape Growers Association
Lodi
Testified: January 26, 1960

Thor, Eric, Ph.D.
Agricultural Economist and Associate Director, Giannini Foundation of Agricultural Economics, University of California, Berkeley
Testified: February 17, 1961

Thornburg, William J.
Farmer and Co-manager, Thor Packing Co., Inc.
Holtville
Testified: January 15, 1960

Tieburg, Albert B.
Chief, Division of Public Employment Offices and Benefit Payments, State Department of Employment
Sacramento
Testified: November 16, 1959; November 17, 1959; January 27, 1960; December 15, 1960

Van Vleck, Gordon K.
First Vice President, California Cattlemen's Association
Sloughhouse
Testified: January 26, 1960

Veneman, John G.
Peach Grower; Chairman, Stanislaus County Board of Supervisors; Member, Growers Harvesting Committee
Modesto
Testified: November 17, 1959; December 16, 1960

Ward, John F.
Attorney at Law; Representing, Associated Farmers of California
San Francisco
Testified: June 15, 1960

Weidner, Robert E.
President, Buena Park Greenhouses, Inc.
Brea
Submitted verified letter: January 15, 1960

West, Philip J.
Secretary-Manager, Calexico Chamber of Commerce
Calexico
Testified: January 15, 1960

Wood, Herman
Ranch Manager, Gerry Olson Ranches (O. G. Olson Co.)
Patterson
Testified: June 15, 1960

Wyckoff, Mrs. Hubert, Jr.
Chairman, Subcommittee on the Migrant Child; Governor's Advisory Committee on Children and Youth; Co-Chairman, Conference on Families Who Follow the Crops
Watsonville
Testified: December 16, 1960

Yost, Leland J.
Farmer and General Manager, Coachella Valley Farmers Association
Thermal
Testified: January 15, 1960

Zuckerman, John
Farmer; Member, Federal Advisory Council, U. S. Secretary of Labor
Stockton
Testified: November 16, 1959; June 15, 1960

APPENDIX B

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APPENDIX B—EXHIBIT 1

RESOLUTIONS ADOPTED BY THE CALIFORNIA LEGISLATURE REQUESTING A FEDERAL MINIMUM WAGE FOR FARM WORKERS

CHAPTER 227—1959

Senate Joint Resolution No. 19—Relative to a minimum wage law for agricultural workers.

[Filed with Secretary of State, June 23, 1959]

WHEREAS, Agricultural workers of the nation form a most important part of our national economy; and

WHEREAS, In recent years agricultural workers in many regions of the United States, including certain areas of California, are reported to have earned a disproportionate and extremely low annual wage as compared with other workers; and

WHEREAS, California farmers must compete in the sale of farm products with other states having not only a more favorable freight rate, but which in addition pay wages to their farm workers far less than those paid in California, thus putting California agriculture at a tremendous disadvantage in the national competitive market of farm products; and

WHEREAS, In these regions it is reported that the agricultural worker's income has failed to keep pace with the rising costs of living; and

WHEREAS, The health and welfare of our nation depend to a great extent on the food that is produced by our farms, and without sufficient workers the farms cannot prosper and maintain for the people of this country the high standard of living to which they are accustomed; and

WHEREAS, The federal government has not enacted a minimum wage law that applies to the agricultural workers of the country; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact a minimum wage law for the agricultural workers of the nation; and be it further

Resolved, That the Secretary of the Senate is hereby directed to transmit suitably prepared copies of this resolution to the President and Vice President of the United States, the Secretary of Agriculture, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 69—1961

Senate Joint Resolution No. 20—Relative to a minimum wage law for agricultural workers.

[Filed with Secretary of State, March 9, 1961]

WHEREAS, Farms and agricultural workers are one of the foundation stones on which our nation rests; and

WHEREAS, The United States is a bulwark of the free world in the fight for peace and freedom and against communism, and without a strong farm economy this nation cannot maintain its position in the free world; and

WHEREAS, The health and welfare of our country depends in large part on the food produced by our farms, and without sufficient experienced and competent agricultural workers, our crops cannot be properly harvested and our farms cannot prosper and play their part in maintaining a healthy and strong America; and

WHEREAS, For the past several decades agricultural workers in many regions of the United States have not received an adequate proportion of the nation's agricultural earnings and, in some areas of the United States, such workers have had to subsist on an extremely low annual wage as compared with other agricultural workers; and

WHEREAS, California farmers must compete in the sale of farm products with other states having not only a more favorable freight rate, but which in addition pay wages to their farm workers far less than those paid in California and the West, thus putting California and western agriculture at a tremendous disadvantage in the highly competitive national market for farm products; and

WHEREAS, The federal government has not enacted a national minimum wage law that applies to the agricultural workers throughout the country, which wage would be of tremendous benefit to the national farm economy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact a national minimum wage law for the agricultural workers of the nation; and be it further

Resolved, That the Secretary of the Senate is hereby directed to transmit suitably prepared copies of this resolution to the President and Vice President of the United States, the Secretary of Agriculture, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

APPENDIX B—EXHIBIT 2

S.B. 282 (Ch. 337) — 1961

An act to add Article 12 (commencing with Section 429) to Chapter 2, Part 1, Division 1 of the Health and Safety Code, relating to health of seasonal agricultural and migratory workers.

The people of the State of California do enact as follows:

SECTION 1. Article 12 (commencing with Section 429) is added to Chapter 2, Part 1, Division 1 of the Health and Safety Code, to read:

Article 12. Health of Seasonal Agricultural and Migratory Workers

429. The State Department of Public Health may maintain a program for seasonal agricultural and migratory workers and their families, consisting of:

(a) Studies of the health and health services for seasonal agricultural and migratory workers and their families throughout the State.

(b) Technical and financial assistance to local agencies concerned with the health of seasonal agricultural and migratory workers and their families.

(c) Co-ordination with similar programs of the federal government, other states, and voluntary agencies.

429.1. The department may contract and co-operate with local governmental agencies and voluntary nonprofit organizations in connection with the development of local health programs for seasonal agricultural and migratory workers and their families.

APPENDIX B—EXHIBIT 3

PUBLIC LAW 87-692; 76 STAT. 592
(S. 1130)

An act to amend title III of the Public Health Service Act to authorize grants for family clinics for domestic agricultural migratory workers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Title III of the Public Health Service Act (42 U.S.C., ch. 6A, subch. II) [87] is amended by inserting at the end of part A thereof the following new section:

"GRANTS FOR FAMILY HEALTH SERVICE CLINICS FOR DOMESTIC AGRICULTURAL MIGRATORY WORKERS

"Sec. 310. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1963, the fiscal year ending June 30, 1964, and the fiscal year ending June 30, 1965, such sums, not to exceed $3,000,000 for any year, as may be necessary to enable the Surgeon General (1) to make grants to public and other nonprofit agencies, institutions, and organizations for paying part of the cost of (i) establishing and operating family health service clinics for domestic agricultural migratory workers and their families, including training persons to provide services in the establishing and operating of such clinics, and (ii) special projects to improve health services for and the health conditions of domestic agricultural migratory workers and their families, including training persons to provide health services for or otherwise improve the health conditions of such migratory workers and their families, and (2) to encourage and co-operate in programs for the purpose of improving health services for or otherwise improving the health conditions of domestic agricultural migratory workers and their families."

Approved September 25, 1962.

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[87] 42 U.S.C.A. § 241 et seq.

APPENDIX B—EXHIBIT 4

SAFETY ORDER FOR AGRICULTURAL OPERATIONS

Article 10 (commencing with Section 3298), Subchapter 7, Chapter 4, Title 8 of the California Administrative Code

3298. **Application.** The orders in this article shall apply only to employment and places of employment involved in the growing and harvesting of farm crops and agricultural services.

NOTE: Authority cited for Article 10: Sections 6312, 6500 and 6505, Labor Code.

History: 1. New Article 10 (§§3298 through 3298.18) filed 12-27-61; effective thirtieth day thereafter (Register 61, No. 26).

3298.1. Definitions. (a) **Mobile farm equipment** means farm equipment such as tractors, harvesters, mowers, balers, planters, and other equipment which perform operations while in motion. Mobile equipment includes self-propelled equipment.

(b) **Self-propelled farm equipment** means mobile equipment which is provided with locomotive power as an integral part of the unit.

3298.2. Communications. Employers employing persons who do not speak the English language shall provide adequate means of communication so that instructions can be given effectively.

3298.3. First-aid Kit. (a) There shall be adequate first-aid materials immediately available at the farm headquarters and/or on worker transportation buses. Such materials shall be kept in a sanitary and usable condition. A frequent inspection shall be made of all first-aid materials, which shall be replenished as necessary. In the case of employers whose workers are widely scattered in small crews that are contacted by a traveling foreman, adequate protection may be accomplished by having a first-aid kit in the foreman's car or vehicle.

(b) At isolated locations, provisions must be made in advance for prompt medical attention in case of serious injuries. This may be accomplished by on-the-site facilities or proper equipment for prompt transportation of the injured person to a physician or telephone communication system for contacting a doctor or combinations of these that will avoid unnecessary delay in treatment. There shall be at least one (1) man with training for the rendering of emergency first aid at any isolated location where twenty (20) or more men are employed.

3298.4. Tractors (General). (a) All tractors shall be equipped with fenders or equivalent protection between the tractor operator and the tracks or rear wheels. On wheel tractors a minimum distance of sixty-four inches (64") from the centerline of one driving wheel to the centerline of the opposite wheel will be considered equivalent protection.

(b) Tractor brake-locking or parking device shall be of the positive type, designed and maintained in such a manner that tractor vibration will not release the device.

3298.5. Field Equipment. (a) All self-propelled mobile equipment shall, when under its own power and in motion, have an operator stationed at the vehicular controls at all times.

(b) Safe access to a safe place for all personnel riding on mobile equipment shall be provided.

(c) All self-propelled equipment shall be equipped with a braking device controlled from the operator's station, capable of preventing the vehicle from moving while parked.

(d) Where mobile farm equipment is towed by a tractor or truck and the tractor or truck driver cannot see the employees on the towed equipment, a positive signaling device shall be installed on the towed equipment, or there shall be a device on the towed equipment that can be actuated to stop the towing equipment in case of an emergency.

(e) Engine exhaust system shall not be piped into or through an enclosed cab on tractors or other equipment.

(f) All tractors or self-propelled farm equipment used between an hour after sunset or an hour before sunrise shall be equipped with at least one (1) headlight that will illuminate the area in front of the equipment at least fifty feet (50'). There shall be at least one (1) rear light to illuminate equipment at the rear. Additional lighting shall be provided where the operation requires field adjustment or the operator's attention.

(g) Adequate means of access shall be provided so that employees can safely reach the top of the load for manual loading or unloading of high loads.

3298.6. Horizontal Rotary Spreaders. The spinner shall be guarded to prevent accidental contact. The guard shall consist of a bar, rail, or similar structure beyond the periphery of the spinner.

3298.7 Corn Pickers. Field corn-picking machines or header attachments of the snap-roll type shall be equipped with a quick-operating roll-separating device operated from the operator's position or a deadman control to de-energize the machine or header attachment when the operator leaves his station.

3298.8. Beet Trucks. In no case shall the entire side door hinge from the bottom on manually operated beet truck sides. Split doors may be used, providing the bottom hinged portion does not exceed its practical value as a locking device or discharge lip and is not over eighteen inches (18") high.

3298.9. Choppers. (a) Every power-driven cutter, chopper, or grinder shall be guarded to prevent accidental contact with hazardous parts of the machine, such as revolving blades. The following provision shall be considered adequate:

On new installations on or after July 1, 1962, removal or opening of doors or covers giving access to the revolving blades or other hazardous parts of the machine shall require the use of a tool rather than the manipulation of quick-opening devices. Such doors or covers shall be identified by a warning sign.

(b) Every manually fed power-driven cutter, chopper, or grinder shall be guarded to prevent accidental contact with the feed rolls or other hazardous processing parts of the machine. Guarding may be accomplished by extending the feed chute or hopper to provide a minimum accessible distance of not less than eighty-eight inches (88″) from the working level to the point of operation, or a distance of thirty-six inches (36″) from the edge of the chute or hopper to the point of operation or other effective means.

(c) Stationary machines which are equipped with feed rolls or other feed-assisting mechanisms shall be provided with a safety bar or trapeze bar.

(d) Rotary choppers with horizontal blades shall have side shields extending below the plane of the lowest blade. Front and rear guards shall be provided to guard against accidental contact with the revolving blades.

3298.10. Conveyors and Elevators. (a) Portable screw conveyors located seven feet (7′) or less above the work level shall be substantially covered or guarded to prevent accidental contact with any portion of the screw.

(b) There shall be no remote starting control installed in the drive system of portable sack loaders, grain augers, grain elevators, or drag conveyors. The starting control shall be located within ready access of the operator. In no case shall the system be designed to be started in any other place.

(c) Conveyors shall have a barrier guard installed to prevent contact with the shear created by portions of the conveyor passing structural or other fixed parts.

3298.11. Vegetable-trimming Saws. (a) The unused portion of the saw blades shall be enclosed.

(b) A barrier shall be installed to prevent employees from reaching the saw blades.

3298.12. Water Hazards. Ladders, steps, or other suitable climbing means extending to the low water level shall be provided where and when employees are required to work in or about farm structures such as permanent pools, ponds, water tanks, or reservoirs four feet (4′) or more in actual depth and where the slope and construction would make exit difficult.

3298.13. Ladders. (a) On new installations on or after July 1, 1962, ladders made of wood shall, if treated, be treated with a clear finish only, and shall not be painted with paints or finishes that would make it difficult or impossible to check the grains of the wood or to detect checks or cracks in the rails or cleats.

(b) Extension ladders shall not be fully extended, but shall have the following minimum lapping of sections:

(1) **Two-section Ladders**
Three feet (3′) for ladders with working length up to thirty-three feet (33′).
Four feet (4′) for ladders with working length thirty-three feet to forty-four feet (33′-44′).

(2) **Three-section Ladders**
Four feet (4′) for each section.

3298.14. Formulation and Application of Injurious Materials.

Note: Injurious materials are defined in Section 2461 of Title 3 of the California Administrative Code.

This order is intended to apply to but is not necessarily limited to commercial pesticide operators where the exposure is of sufficient duration so that medical tests will indicate the effectiveness of preventive measures.

(a) **Medical Supervision.** Where employees are regularly occupied in the spreading, spraying, dusting, or other application or formulation of organic phosphate injurious materials, the employer shall engage the service of a licensed physician to provide medical supervision. Medical supervision shall include advance planning for prompt care of organic phosphate poisoning and cholinesterase determinations or other recognized medical tests to be made on each employee before any exposure to these materials and as often thereafter as recommended by the physician.

(b) **Record of Physician's Recommendations.** The employer shall keep a record of all recommendations made by the medical supervisor and such record shall be made available to the Division of Industrial Safety on request.

(c) **Restricted Activities.** When, in the opinion of the employer's medical authority, continued exposure to organic phosphate injurious materials is likely to injure an employee's health, such employee shall be removed from the exposure.

3298.15. Decontamination of Equipment Used for Injurious Materials. (a) Machines, aircraft, or applicators shall be decontaminated before they are overhauled or placed in storage.

(b) Decontamination shall be done in a safe area by washing with water, neutralization, or by means recommended by the manufacturer of the injurious material.

3298.16. Aircraft Crop Dusting and Spraying. (a) All hoppers on crop-dusting aircraft shall have dust-tight covers, and shall have lids so secured that they will not readily open in case of a flipover.

(b) All parts of the pilot's compartment shall be kept relatively free from injurious material organic phosphates by regular cleaning. No employee, including the pilot, shall load or help to load such materials, or clean or help to clean equipment contaminated with such materials, unless equipped with proper protective clothing.

3298.17. Applicator Rigs, Tanks, and Vessels Used for Fertilizer, Insecticide, Pesticide, and Other Chemical Solutions of a Hazardous Nature. (a) All closed tanks over one hundred gallons (100 gal.) in capacity shall have an effective means to indicate the liquid level when an overflow or splash may cause an injury.

(b) Fittings, hose, and tubing connections of the proper strength for the maximum pressure encountered in the system shall be used. All hose connections shall be clamped or otherwise safely secured.

Anhydrous ammonia (NH_3) connections shall be in accordance with the Unfired Pressure Vessel Safety Orders.

(c) All storage tanks shall have a legend attached, painted, or stenciled on them indicating the type of solution stored in them. The legend shall be in letters at least two inches (2″) high of a color contrasting with the color of the tank. A notice with precautionary instructions equivalent to the label prescribed by the labeling orders of the Division of Industrial Safety for the material being used shall also be attached to the tank.

(d) When positive displacement pumps are used and a stop valve is located between the outlet side of the pump and the discharge end of the hose, pipe, or tubing, there shall be installed a relief device which will bypass the liquid back to the low-pressure side of the system to prevent rupturing of the discharge hose, pipe, tubing, or pump.

(e) Controls for applicator tanks shall be placed in such a manner that the employee will receive the least possible exposure from ruptured or breaking lines at the controls.

The distributing manifold (Christmas Tree) if in the immediate vicinity of the operator shall be located to the rear and below the seat level of the operator or completely shielded.

(f) When two (2) or more tanks under gas or liquid pressure are connected by means of a hose, tubing, or pipe blocked at both ends by stop valves, there shall be a device installed in the line to bleed off the pressure before the line is disconnected.

(g) Where anhydrous (NH_3) or aqua ammonia operations are conducted, each bulk tank, mobile applicator, or nurse tank, shall have immediately available from a safe and accessible source, or shall be supplied with sufficient clean water (5 gallons) to enable an employee to wash his eyes in case of accidental sprays or spillage.

(h) All pressure vessels shall be designed and constructed in accordance with the Unfired Pressure Vessel Safety Orders.

3298.18. Sheepshearing. (a) Canvas or other fabric material used for floors shall be stretched tight and properly pegged at regular four-foot (4′) intervals around the outer edge to prevent them from gathering or bunching. The floor shall be maintained tight at all times.

APPENDIX B—EXHIBIT 4—Continued

(b) Hobbles shall be installed one-third (⅓) of the way down on each hanger arm. These hobbles shall be secured to the main hanger, and the leather thongs passed through an eyelet on the turn-out side of the shearing floor. On each end of the thongs there shall be a weight adequate enough to pull the hanger arm back to a neutral position in case the clippers are dropped or kicked free.

(c) The catch pen and turn-out pen shall be provided with proper gates or other barriers to prevent sheep from dashing across the shearing floor while shearers are at work.

APPENDIX B—EXHIBIT 5

TRANSPORTATION OF MIGRANT WORKERS

Part 198 (commencing with Section 198.1), Subchapter B, Chapter 1, Title 49 of the Code of Federal Regulations

PART 198
TRANSPORTATION OF MIGRANT WORKERS

Sec.
198.1 Definitions.
198.2 Applicability.
198.3 Qualifications of drivers or operators.
198.4 Driving of motor vehicles.
198.5 Parts and accessories necessary for safe operation.
198.6 Hours of service of drivers; maximum driving time.
198.7 Inspection and maintenance of motor vehicles.
198.8 Motor vehicles declared "out of service".

AUTHORITY: §§ 198.1 to 198.8 issued under Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304. Interpret or apply Sec. 203, 49 Stat. 544, as amended; 49 U.S.C. 303.

SOURCE: §§ 198.1 to 198.8 appear at 22 F.R. 4448, June 25, 1957, except as otherwise noted.

§ 198.1 Definitions.

(a) *Migrant worker.* "Migrant worker" means any individual proceeding to or returning from employment in agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(f)) or Section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)).

(b) *Carrier of migrant workers by motor vehicle.* "Carrier of migrant worker by motor vehicle" means any person, including any "contract carrier by motor vehicle", but not including any "common carrier by motor vehicle", who or which transports in interstate or foreign commerce at any one time three or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except a migrant worker transporting himself or his immediate family.

(c) *Motor carrier.* "Motor carrier" means any carrier of migrant workers by motor vehicle as defined in paragraph (b) of this section.

(d) *Motor vehicle.* "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Commission, but does not include a passenger automobile or station wagon, any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation in street-railway service.

(e) *Bus.* "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers: Except passenger automobiles or station wagons other than taxicabs.

(f) *Truck.* "Truck" means any self-propelled motor vehicle except a truck tractor, designed and constructed primarily for the transportation of property.

(g) *Truck tractor.* "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(h) *Semitrailer.* "Semitrailer" means any motor vehicle other than a "pole trailer", with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.

(i) *Driver or operator.* "Driver or operator" means any person who drives any motor vehicle.

(j) *Highway.* "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

§ 198.2. Applicability.

The regulations prescribed in this part shall be applicable to motor carriers of migrant workers, as defined in § 198.1 (b), only in the case of transportation of any migrant worker for a total distance of more than 75 miles, and then only if such transportation is across the boundary line of any State, the District of Columbia, or Territory of the United States, or a foreign country.

§ 198.3. Qualifications of drivers or operators.

(a) *Compliance required.* Every motor carrier, and its officers, agents, representatives and employees who drive motor vehicles or are responsible for the hiring, supervision, training, assignment or dispatching of drivers shall comply and be conversant with the requirements of this part.

(b) *Minimum physical requirements.* No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless such person possesses the following minimum qualifications:

(1) No loss of foot, leg, hand or arm.

(2) No mental, nervous, organic, or functional disease, likely to interfere with safe driving.

(3) No loss of fingers, impairment of use of foot, leg, fingers, hand or arm, or other structural defect or limitation, likely to interfere with safe driving.

(4) Eyesight: Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal meridian shall not be less than a total of 140 degrees; ability to distinguish colors, red, green and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.

(5) Hearing: Hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid.

(6) Liquor, narcotics and drugs: Shall not be addicted to the use of narcotics or habit forming drugs, or the excessive use of alcoholic beverages or liquors.

(7) Initial and periodic physical examination of drivers: No person shall drive nor shall any motor carrier require or permit any person to drive any motor vehicle unless within the immediately preceding 36-month period such person shall have been physically examined and shall have been certified in accordance with the provisions of subparagraph 8 hereof by a licensed doctor of medicine or osteopathy as meeting the requirements of this subsection.

(8) Certificate of physical examination: Every motor carrier shall have in its files at its principal place of business for every driver employed or used by it a legible certificate of a licensed doctor of medicine or osteopathy based on a physical examination as required by subparagraph 7 hereof or a legible photographically reproduced copy thereof, and every driver shall have in his possession while driving, such a certificate or a photographically reproduced copy thereof covering himself.

(9) Doctor's certificate: The doctor's certificate shall certify as follows:

DOCTOR'S CERTIFICATE
(Driver of Migrant Workers)

This is to certify that I have this day examined ________ in accordance with Section 198.3 (b) of the Motor Carrier Safety Regulations of the Interstate Commerce Commission and that I find him

Qualified under said rules ☐
Qualified only when wearing glasses ☐
I have kept on file in my office a completed examination.

______________________ (Date)
______________________ (Place)

______________________ (Signature of examining doctor)

______________________ (Address of doctor)

Signature of driver______________________
Address of driver______________________

APPENDIX 8—EXHIBIT 5—Continued

(c) *Minimum age and experience requirements.* No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless such person possesses the following minimum qualifications:

(1) *Age.* Minimum age shall be 21 years.

(2) *Driving skill.* Experience in driving some type of motor vehicle (including private automobiles) for not less than one year, including experience throughout the four seasons.

(3) *Knowledge of regulations.* Familiarity with the rules and regulations prescribed in this part pertaining to the driving of motor vehicles.

(4) *Knowledge of English.* Every driver shall be able to read and speak the English language sufficiently to understand highway traffic signs and signals and directions given in English and to respond to official inquiries.

(5) *Driver's permit.* Possession of a valid permit qualifying the driver to operate the type of vehicle driven by him in the jurisdiction by which the permit is issued.

§ 198.4. Driving of motor vehicles.

(a) *Compliance required.* Every motor carrier shall comply with the requirements of this part, shall instruct its officers, agents, representatives and drivers with respect thereto, and shall take such measures as are necessary to insure compliance therewith by such persons. All officers, agents, representatives, drivers, and employees of motor carriers directly concerned with the management, maintenance, operation, or driving of motor vehicles, shall comply with and be conversant with the requirements of this part.

(b) *Driving rules to be obeyed.* Every motor vehicle shall be driven in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations of this Commission which impose a greater affirmative obligation or restraint.

(c) *Driving while ill or fatigued.* No driver shall drive or be required or permitted to drive a motor vehicle while his ability or alertness is so impaired through fatigue, illness, or any other cause as to make it unsafe for him to begin or continue to drive, except in case of grave emergency where the hazard to passengers would be increased by observance of this section and then only to the nearest point at which the safety of passengers is assured.

(d) *Alcoholic beverages.* No driver shall drive or be required or permitted to drive a motor vehicle, be in active control of any such vehicle, or go on duty or remain on duty, when under the influence of any alcoholic beverage or liquor, regardless of its alcoholic content, nor shall any driver drink any such beverage or liquor while on duty.

(e) *Schedules to conform with speed limits.* No motor carrier shall permit nor require the operation of any motor vehicle between points in such period of time as would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated.

(f) *Equipment and emergency devices.* No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the following parts, accessories, and emergency devices are in good working order; nor shall any driver fail to use or make use of such parts, accessories, and devices when and as needed:

Service brakes, including trailer brake connections.
Parking (hand) brake.
Steering mechanism.
Lighting devices and reflectors.
Tires.
Horn.
Windshield wiper or wipers.
Rear-vision mirror or mirrors.
Coupling devices.
Fire extinguisher, at least one properly mounted.

Road warning devices, at least one red burning fusee and at least three flares (oil burning pot torches), red electric lanterns, or red emergency reflectors.

(g) *Safe loading*—(1) *Distribution and securing of load.* No motor vehicle shall be driven nor shall any motor carrier permit or require any motor vehicle to be driven if it is so loaded, or if the load thereon is so improperly distributed or so inadequately secured, as to prevent its safe operation.

(2) *Doors, tarpaulins, tailgates and other equipment.* No motor vehicle shall be driven unless the tailgate, tailboard, tarpaulins, doors, all equipment and rigging used in the operation of said vehicle, and all means of fastening the load, are securely in place.

(3) *Interference with driver.* No motor vehicle shall be driven when any object obscures his view ahead, or to the right or left sides, or to the rear, or interferes with the free movement of his arms or legs, or prevents his free and ready access to the accessories required for emergencies, or prevents the free and ready exit of any person from the cab or driver's compartment.

(4) *Property on motor vehicles.* No vehicle transporting persons and property shall be driven unless such property is stowed in a manner which will assure: (i) Unrestricted freedom of motion to the driver for proper operation of the vehicle; (ii) unobstructed passage to all exits by any person; and (iii) adequate protection to passengers and others from injury as a result of the displacement or falling of such articles.

(5) *Maximum passengers on motor vehicles.* No motor vehicle shall be driven if the total number of passengers exceeds the seating capacity which will be permitted on seats prescribed in § 198.5(f) when that section is effective. All passengers carried on such vehicle shall remain seated while the motor vehicle is in motion.

(h) *Rest and meal stops.* Every carrier shall provide for reasonable rest stops at least once between meal stops. Meal stops shall be made at intervals not to exceed six hours and shall be for a period of not less than 30 minutes duration.

(i) *Kinds of motor vehicles in which workers may be transported.* Workers may be transported in or on only the following types of motor vehicles: a bus, a truck with no trailer attached, or a semitrailer attached to a truck-tractor provided that no other trailer is attached to the semitrailer. Closed vans without windows or means to assure ventilation shall not be used.

(j) *Limitation on distance of travel in trucks.* Any truck when used for the transportation of migrant workers, if such workers are being transported in excess of 600 miles, shall be stopped for a period of not less than eight consecutive hours either before or upon completion of 600 miles travel, and either before or upon completion of any subsequent 600 miles travel to provide rest for drivers and passengers.

(k) *Lighting devices and reflectors.* No motor vehicle shall be driven when any of the required lamps or reflectors are obscured by the tailboard, by any part of the load, by dirt, or otherwise, and all lighting devices required by subpart B of Part 193 of this subchapter shall be lighted during darkness or at any other time when there is not sufficient light to render vehicles and persons visible upon the highway at a distance of 500 feet.

(*l*) *Ignition of fuel; prevention.* No driver or any employee of a motor carrier shall: (1) Fuel a motor vehicle with the engine running, except when it is necessary to run the engine to fuel the vehicle; (2) smoke or expose any open flame in the vicinity of a vehicle being fueled; (3) fuel a motor vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank; (4) permit any other person to engage in such activities as would be likely to result in fire or explosion.

(m) *Reserve fuel.* No supply of fuel for the propulsion of any motor vehicle or for the operation of any accessory thereof shall be carried on the motor vehicle except in a properly mounted fuel tank or tanks.

(n) *Driving by unauthorized person.* Except in case of emergency, no driver shall permit a motor vehicle to which he is assigned to be driven by any person not authorized to drive such vehicle by the motor carrier in control thereof.

(o) *Protection of passengers from weather.* No motor vehicle shall be driven while transporting passengers unless the passengers therein are protected from inclement weather conditions such as rain, snow, or sleet, by use of the top or protective devices required by § 198.5(f).

APPENDIX B—EXHIBIT 5—Continued

(p) *Unattended vehicles; precautions.* No motor vehicle shall be left unattended by the driver until the parking brake has been securely set, the wheels chocked, and all reasonable precautions have been taken to prevent the movement of such vehicle.

(q) *Railroad grade crossings; stopping required; sign on rear of vehicle.* Every motor vehicle shall, upon approaching any railroad grade crossing, make a full stop not more than 50 feet, nor less than 15 feet from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear; except that a full stop need not be made at:

(1) A street car crossing within a business or residence district of a municipality;

(2) A railroad grade crossing where a police officer or a traffic-control signal (not a railroad flashing signal) directs traffic to proceed;

(3) An abandoned or exempted grade crossing which is clearly marked as such by or with the consent of the proper state authority, when such marking can be read from the driver's position.

All such motor vehicles shall display a sign on the rear reading, "This Vehicle Stops at Railroad Crossings."

§ 198.5. Parts and accessories necessary for safe operation.

(a) *Compliance.* Every motor carrier, and its officers, agents, drivers, representatives and employees directly concerned with the installation and maintenance of equipment and accessories, shall comply and be conversant with the requirements and specifications of this part, and no motor carrier shall operate any motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with said requirements and specifications.

(b) *Lighting devices.* Every motor vehicle shall be equipped with the lighting devices and reflectors required by subpart B of Part 193 of this subchapter.

(c) *Brakes.* Every motor vehicle shall be equipped with brakes as required by subpart C of Part 193 of this subchapter, except § 193.44 of this subchapter, and shall satisfy the braking performance requirements contained therein.

(d) *Coupling devices; fifth wheel mounting and locking.* The lower half of every fifth wheel mounted on any truck-tractor or dolly shall be securely affixed to the frame thereof by U-bolts of adequate size, securely tightened, or by other means providing at least equivalent security. Such U-bolts shall not be of welded construction. The installation shall be such as not to cause cracking, warping, or deformation of the frame. Adequate means shall be provided positively to prevent the shifting of the lower half of a fifth wheel on the frame to which it is attached. The upper half of every fifth wheel shall be fastened to the motor vehicle with at least the security required for the securing of the lower half to a truck-tractor or dolly. Locking means shall be provided in every fifth wheel mechanism including adapters when used, so that the upper and lower halves may not be separated without the operation of a positive manual release. A release mechanism operated by the driver from the cab shall be deemed to meet this requirement. On fifth wheels designed and constructed as to be readily separable, the fifth wheel locking devices shall apply automatically on coupling for any motor vehicle the date of manufacture of which is subsequent to December 31, 1952.

(e) *Tires.* Every motor vehicle shall be equipped with tires of adequate capacity to support its gross weight. No motor vehicle shall be operated on tires which have been worn so smooth as to expose any tread fabric or which have any other defect likely to cause failure. No vehicle shall be operated while transporting passengers while using any tire which does not have tread configurations on that part of the tire which is in contact with the road surface. No vehicle transporting passengers shall be operated with re-grooved, re-capped, or re-treaded tires on front wheels.

(f) *Passenger compartment.* Every motor vehicle transporting passengers, other than a bus, shall have a passenger compartment meeting the following requirements:

(1) *Floors.* A substantially smooth floor, without protruding obstructions more than two inches high, except as are necessary for securing seats or other devices to the floor, and without cracks or holes.

(2) *Sides.* Side walls and ends above the floor at least 60 inches high, by attachment of sideboards to the permanent body construction if necessary. Stake body construction shall be construed to comply with this requirement only if all six-inch or larger spaces between stakes are suitably closed to prevent passengers from falling off the vehicle.

(3) *Nails, screws, splinters.* The floor and the interior of the sides and ends of the passenger-carrying space shall be free of inwardly protruding nails, screws, splinters, or other projecting objects, likely to be injurious to passengers or their apparel.

(4) *Seats.* On and after November 1, 1957, a seat shall be provided for each worker transported. The seats shall be: securely attached to the vehicle during the course of transportation; not less than 16 inches nor more than 19 inches above the floor; at least 13 inches deep; equipped with backrests extending to a height of at least 36 inches above the floor, with at least 24 inches of space between the backrests or between the edges of the opposite seats when face to face; designed to provide at least 18 inches of seat for each passenger; without cracks more than one-fourth inch wide, and the backrests, if slatted, without cracks more than two inches wide, and the exposed surfaces, if made of wood, planed or sanded smooth and free of splinters.

(5) *Protection from weather.* Whenever necessary to protect the passengers from inclement weather conditions, be equipped with a top at least 80 inches high above the floor and facilities for closing the sides and ends of the passenger-carrying compartment. Tarpaulins or other such removable devices for protection from the weather shall be secured in place.

(6) *Exit.* Adequate means of ingress and egress to and from the passenger space shall be provided on the rear or at the right side. Such means of ingress and egress shall be at least 18 inches wide. The top and the clear opening shall be at least 60 inches high, or as high as the side wall of the passenger space if less than 60 inches. The bottom shall be at the floor of the passenger space.

(7) *Gates and doors.* Gates or doors shall be provided to close the means of ingress and egress and each such gate or door shall be equipped with at least one latch or other fastening device of such construction as to keep the gate or door securely closed during the course of transportation; and readily operative without the use of tools.

(8) *Ladders or steps.* Ladders or steps for the purpose of ingress or egress shall be used when necessary. The maximum vertical spacing of footholds shall not exceed 12 inches, except that the lowest step may be not more than 18 inches above the ground when the vehicle is empty.

(9) *Handholds.* Handholds or devices for similar purpose shall be provided to permit ingress and egress without hazard to passengers.

(10) *Emergency exit.* Vehicles with permanently affixed roofs shall be equipped with at least one emergency exit having a gate or door, latch and handhold as prescribed in subparagraphs (7) and (9) of this paragraph and located on a side or rear not equipped with the exit prescribed in subparagraph (6) of this paragraph.

(11) *Communication with driver.* Means shall be provided to enable the passengers to communicate with the driver. Such means may include telephone, speaker tubes, buzzers, pullcords, or other mechanical or electrical means.

(g) *Protection from cold.* Every motor vehicle shall be provided with a safe means of protecting passengers from cold or undue exposure, but in no event shall heaters of the following types be used:

(1) *Exhaust heaters.* Any type of exhaust heater in which the engine exhaust gases are conducted into or through any space occupied by persons or any heater which conducts engine compartment air into any such space.

(2) *Unenclosed flame heaters.* Any type of heater employing a flame which is not fully enclosed.

(3) *Heaters permitting fuel leakage.* Any type of heater from the burner of which there could be spillage or leakage of fuel upon the tilting or overturning of the vehicle in which it is mounted.

(4) *Heaters permitting air contamination.* Any heater taking air, heated or to be heated, from the engine compartment or from direct contact with any portion of the exhaust system; or any heater taking air in ducts from the outside atmosphere to be conveyed through the engine compartment, unless said

APPENDIX B—EXHIBIT 5—Continued

ducts are so constructed and installed as to prevent contamination of the air so conveyed by exhaust or engine compartment gases.

(5) Any heater not securely fastened to the vehicle.

§ 198.6. Hours of service of drivers; maximum driving time.

No person shall drive nor shall any motor carrier permit or require a driver employed or used by it to drive or operate for more than 10 hours in the aggregate (excluding rest stops and stops for meals) in any period of 24 consecutive hours, unless such driver be afforded eight consecutive hours rest immediately following the 10 hours aggregate driving. The term "24 consecutive hours" as used in this part means any such period starting at the time the driver reports for duty.

§ 198.7. Inspection and maintenance of motor vehicles.

Every motor carrier shall systematically inspect and maintain or cause to be systematically maintained, all motor vehicles and their accessories subject to its control, to insure that such motor vehicles and accessories are in safe and proper operating condition.

§ 198.8. Motor vehicles declared "out of service."

No motor carrier shall permit or require a driver to drive nor shall any driver drive any motor vehicle which by reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown and which motor vehicle, because of such condition, has been declared and marked "out of service" with the prescribed sticker by an authorized employee of this Commission. Such motor vehicle shall not be operated until the repairs required by the "out of service notice" on Form BMC 63 have been satisfactorily completed and the "out of service" sticker removed. No person shall remove the "out of service" sticker from such motor vehicle prior to the completion of the required repairs. When the repairs have been made, the carrier shall so certify to this Commission on Form BMC 63, in accordance with the terms prescribed thereon. The term "an authorized employee of this Commission" means the chief and assistant chief of the Section of Field Service and the Section of Motor Carrier Safety, and all safety supervisors, district supervisors, rate agents, and safety inspectors employed in the Bureau of Motor Carriers. [24 F.R. 7695, Sept. 24, 1959]

APPENDIX B—EXHIBIT 6

TRANSPORTATION OF FARM LABORERS AND OTHER EMPLOYEES

Sections 322, 323, 12519, 22414, and 31400 *et seq.*, California Vehicle Code

§ 322. Farm Labor Bus. A "farm labor bus" is any bus owned, operated or leased by a farmer or a farm labor contractor, as defined by Sections 1682 and 1682.3 of the Labor Code, while being used for the transportation of seven or more employees of a farmer or farm labor contractor.

§ 323. Farm Labor Truck. A "farm labor truck" is any motor truck owned, operated or leased by a farmer or farm labor contractor, as defined by Sections 1682 and 1682.3 of the Labor Code, while being used for the transportation of seven or more employees of a farmer or farm labor contractor.

§ 12519. Farm Labor Vehicle License. No person shall operate a farm labor truck or a farm labor bus unless he has in his possession a valid driver's license issued by the department to permit the operation of farm labor vehicles or is expressly exempted under this code.

§ 22414. Farm Labor Bus or Truck. In no event shall the driver of a farm labor bus or a farm labor truck operate such vehicle in excess of a maximum speed of 45 miles per hour when transporting passengers.

§ 31400. Trucks Used to Transport Workmen. Trucks used primarily or regularly for the transportation of workmen shall be:

(a) Equipped with seats securely fastened to the vehicle.

(b) Equipped, if a motor truck, with a railing or other suitable enclosure on the sides and end of the vehicle not less than 46 inches above the floor of the vehicle.

(c) Equipped with steps, stirrups or other equivalent devices so placed and arranged that the vehicle may be safely mounted and dismounted.

§ 31401. Labor Bus Equipment Specifications. Farm labor buses and enclosed farm labor trucks, other than two-axle trucks weighing less than 3,000 pounds, having an enclosed seating capacity and used for the transportation of farm laborers, shall, in addition to the requirements of Section 31400 of this code, meet the following specifications:

(a) Every passenger compartment shall be provided with at least two exits, remotely located from each other. Each exit shall be provided with an adequate door, guardrail or other closure which opens outward and is capable of being opened from either the interior or exterior of the vehicle. Such exits shall be equipped with positive devices to keep them closed when not in use and of such character as to permit them to be opened readily when necessary, without undue accessibility for unauthorized use.

Exits shall conform to the following minimum specifications:

(1) No obstruction shall be placed over the handle of an exit.

(2) Signs reading "Exit" shall be printed on the interior and exterior of the vehicle at the exits. The signs shall be printed in English and in the language of the workers currently being transported. All letters shall be at least two inches in height.

(3) No part of a seat shall be a part of or attached to an exit.

(b) Aisles shall be provided so that every passenger has ready access to at least one of the exits.

Where seating is face to face, the nearest portion of the back of the facing seats shall be not less than 43 inches apart.

§ 31402. Exhaust System. The exhaust system of every vehicle subject to the provisions of Section 31401 shall extend beyond the rear or side of the body, but shall in no case terminate in the vicinity of an exit. Exhaust pipes, mufflers and tailpipes shall be entirely outside the body. No flexible pipe or tubing shall be used except where necessary to prevent breakage, and shall be only of the hermetically sealed exhaust type.

§ 31403. Ventilation System. The ventilation system in the passenger compartment of every vehicle subject to the provisions of Section 31401 shall be approved by the California Highway Patrol.

§ 31404. Removal of Broken Glass. All broken glass in windows or elsewhere on a vehicle subject to the provisions of Section 31401 shall be removed. Replacement glass shall be of the safety type as defined in Section 26702 of this code.

§ 31405. Safety Measures for Tools and Inflammables. (a) All cutting tools or tools with sharp edges carried in the passenger compartment of farm labor buses, farm labor trucks, or other trucks used primarily or regularly for the transportation of farm laborers, shall be placed in covered boxes or containers and all other tools, equipment or other materials carried in the passenger compartment of such vehicles shall be secured to the body of the vehicle and in no event shall they be carried in the aisles.

(b) No substance with a flashpoint of below 150 degrees Fahrenheit shall be carried in the passenger or driver's compartment of such vehicles.

§ 31406. Passenger Accommodations. No farm labor truck used primarily or regularly for the transportation of farm laborers may be operated unless such truck provides at least eighteen (18) inches of seat space for each passenger. No farm labor bus used primarily or regularly for the transportation of farm laborers may be operated where more passengers are being carried in each seat than the number for which that seat was originally designed and in no case shall the amount of seat space provided be less than 16 inches for each passenger. No such bus or truck may carry more passengers than the maximum number of passengers such bus or truck may accommodate affording each passenger such minimum seat space. The maximum number so determined shall be plainly marked on the outside of the vehicle near the door or entrance. It is unlawful for any driver or

APPENDIX B—EXHIBIT 6—Continued

other person in control to permit passengers in excess of the number so determined to ride in or upon the vehicle.

§ 31407. Farm Labor Bus Safety Equipment. Farm labor buses and farm labor trucks used primarily or regularly for the transportation of farm laborers shall be:

(a) Equipped at all times with two reflector flares of a type approved by the California Highway Patrol. When any such vehicle is disabled on the roadway or within 10 feet thereof one reflector flare shall be placed approximately 100 feet in advance and the other approximately 100 feet to the rear of the disabled vehicle.

(b) Equipped with at least one fire extinguisher, of a type approved by the California Highway Patrol, located in an easily accessible place in the driver's compartment. A four-pound dry chemical extinguisher or a four-pound CO_2 extinguisher shall be deemed to meet the minimum requirements for such vehicles. In no event shall extinguishers containing carbon tetrachloride be carried in or about the vehicle.

(c) Equipped, if the passenger compartment is separated from the driver's compartment, with a horn, buzzer or other signaling device actuated from the passenger compartment whereby the passengers of the vehicle may readily gain the attention of the driver in the event of an emergency.

APPENDIX B—EXHIBIT 7

SAFETY ORDER FOR TRANSPORTATION OF EMPLOYEES AND MATERIALS

Article 23 (commencing with Section 3412), Subchapter 7, Chapter 4, Title 8 of the California Administrative Code

NOTE: For the purpose of this article the following definitions shall be used.

3412. Definitions. (a) **Primarily** means that the motor vehicle is seldom used for purposes other than the transportation of employees.

(b) **Regularly** means that the motor vehicle is used to transport employees to and from the working site and for other purposes.

(c) **Occasionally** means that the motor vehicle is seldom used for transportation of employees.

(d) **Bus (Conventional Type)** means any motor vehicle (except those of the pleasure car type) designed, constructed, and used for the transportation of employees in which the driver and the employees sit in the same enclosure.

(e) **Bus (Truck Type)** means any motor vehicle designed, constructed, and used for the transportation of employees in which the driver's cab is separated from the passenger compartment. Such buses are referred to as "truck-crew" buses in this article.

(f) **Pleasure Car Type.** Sedans, coupes, station wagons, carry-alls, and suburban-type vehicles are motor vehicles of the pleasure car type.

(g) **Motor Vehicles** means motor cars, buses, trucks, or semitrailers.

History: 1. New section filed 1-19-55; effective thirtieth day thereafter (Register 55, No. 2).
2. Amendment filed 8-23-60; effective thirtieth day thereafter (Register 60, No. 19).

3412.1. Licensing of Drivers. (a) No person shall be required or permitted to operate a conventional-type bus, a "truck-crew" bus, or any other motor vehicle other than pleasure car type while transporting seven (7) or more employees, exclusive of the driver, unless he holds a valid chauffeur's or endorsed operator's license permitting such operation.

(b) No person shall be required or permitted to operate any motor vehicle used for the transportation of employees unless he holds a valid operator's license.

History: 1. New section filed 8-23-60; effective thirtieth day thereafter (Register 60, No. 19).

3413. Transporting Employees. (a) Trucks and buses used primarily or regularly for the transportation of employees shall be constructed or accommodated for that purpose, and shall be equipped with adequate seats properly secured in place, and shall be protected on sides and ends to a height of forty-six inches (46″) to prevent falls from the vehicle.

(b) On every motor vehicle used for the transportation of employees the lamps, brakes, horn, mirrors, windshields, turn signals, and other equipment affecting the safety of passengers shall be kept in good repair.

(c) Every motor vehicle used primarily or regularly for the transportation of employees shall be equipped with handholds, adequate steps, stirrups, or other similar devices so placed and arranged that the employees can safely mount or dismount the vehicle.

(d) On every bus (truck-type) used primarily or regularly for the transportation of workers, seats with backrests shall be provided with a minimum of eighteen inches (18″) of seat space for each passenger. Where seating is face to face, the aisle between the seats facing each other shall be twenty-four inches (24″) wide at the narrowest point. Seats shall be:

(1) Not less than fifteen inches (15″) or more than nineteen inches (19″) above the floor;

(2) At least ten inches (10″) deep;

(3) Equipped with backrests extending to a height of at least thirty-six inches (36″) above the floor.

(e) Vehicles when being used for the transportation of employees shall not carry explosives, injurious pesticides, or substances with a flashpoint of below one hundred fifty degrees Fahrenheit (150° F.), as determined by the Tagliabue open cup method, unless such substances are carried in properly designed safe containers outside the driver or occupied passenger compartments.

(f) Every truck or bus primarily or regularly used for the transportation of employees shall be equipped at all times with two (2) reflector flares of a type approved by the California Highway Patrol. When any such vehicle is disabled on the roadway or within ten feet (10′) thereof, one (1) reflector flare shall be placed approximately one hundred feet (100′) in advance and the other approximately one hundred feet (100′) to the rear of the disabled vehicle.

(g) Every truck or bus primarily or regularly used for the transportation of employees shall be equipped with a fully charged fire extinguisher in good condition. Carbon tetrachloride extinguishers shall not be used to meet the requirements of this section. An Underwriters' Laboratory-approved dry-chemical extinguisher of not less than four pounds (4 lbs.) or other extinguisher with not less than four (4) B-C units shall be deemed to meet the minimum requirements. Drivers shall be advised of the location and type of extinguisher used and instructed in its operation.

(h) Vehicles used primarily or regularly for the transportation of employees in which the driver and passenger compartments are separate shall be provided with a means by which the passengers can readily communicate with the driver. Such a system may include buzzers, speaker horns, or other means.

(i) The number of employees transported on vehicles covered by this article shall be limited to prevent crowding, and shall never exceed a number which may endanger the safe handling of the vehicle or the safety of the passengers. The passenger carrying capacity of trucks and buses primarily or regularly used to transport employees shall be conspicuously marked on the outside of the vehicle near the door or entrance.

(j) All cutting tools or tools with sharp edges carried in the passenger compartment of trucks and buses primarily or regularly used for the transportation of workers shall be placed in covered boxes or containers, and all other tools, equipment, or other materials carried in the passenger compartment of such vehicles shall be secured to the body of the vehicle. In no event shall they be carried in the aisles. Hand tools with cutting

APPENDIX B—EXHIBIT 7—Continued

edges protected by scabbards or similar guards are considered as being in containers.

(k) The exhaust system of every vehicle subject to the provisions of this article shall extend beyond the rear or side of the body, and shall terminate in such manner that the exhaust gases shall not enter the passenger compartment. Exhaust manifolds, tailpipes, and mufflers shall be maintained in a gastight condition.

(*l*) On all vehicles covered by this section, the floor and the interior of the passenger carrying space shall be kept in good condition and free of inwardly protruding nails, screws, splinters, or other objects likely to be injurious to passengers. All steps, stirrups, seats, handholds, doors, and other accessories shall be kept in good repair. Broken glass shall be removed and replacement glass shall be of the safety type.

CALIFORNIA REQUIREMENTS FOR EMPLOYEE HOUSING

Labor Code Secs. 2410 *et seq.* and Title 8 of the California Administrative Code Section 16216

(m) On every bus, conventional type or truck type, used for the transportation of employees, every compartment with an enclosed seating capacity of seven (7) or more employees shall be provided with an emergency exit remotely located from the normal means of entrance.

NOTE: **Enclosed** means equipped with side enclosures over fifty inches (50") high, or where clearance between the upper edge of the side enclosures and the top is less than thirty inches (30"), or where vertical roof supports are spaced less than thirty inches (30") apart.

(n) All emergency exists required by (m) shall conform to the following minimum specifications:

(1) Exit doors shall be capable of being opened outward from both the interior and exterior of the vehicle.

(2) Side emergency single-panel doors shall not be hinged on the rear edge.

(3) The exit doors shall be equipped with positive-locking devices to keep them closed, but of a type which can be readily opened in an emergency.

(4) No obstruction shall be placed over the handle of an emergency door other than a clear-plastic-type cover.

(5) All interior emergency exit controls shall be installed so that they may be operated by the passengers within the vehicle.

(6) A sign reading **"Exit"** shall be painted on the exterior and interior of the emergency exit. Such signs shall be made in English and in the language of the workers currently being transported.

(7) All emergency exit doors shall provide an unobstructed opening of not less than seven square feet (7 sq. ft.) with a minimum width dimension of twenty-four inches (24").

(8) Rear emergency windows shall provide an unobstructed opening of not less than sixteen inches by fifty-four inches (16" x 54"). The windows shall be designed to insure against accidental closing in an emergency.

(9) No part of a seat shall be a part of or attached to an emergency door.

(10) Every passenger shall have ready access to at least one (1) emergency exit. The aisle between the seats leading to an emergency exit shall provide a clear and unobstructed passageway of not less than eleven and one-half inches (11½"), and shall not be restricted by any post, wheelhousing, jump seats, or other obstruction.

(o) Regular entrance and exit doors to the passenger compartments, other than the driver's cab on trucks and buses, shall have an unobstructed opening not less than twenty-four inches (24") wide and, where possible, sixty inches (60") high.

(p) In lieu of doors on regular means of entrance or exit, the division may accept installation of chains or cables across the width of the opening. Such chains or cables shall be securely attached on each side and be equipped with a quick-release mechanism such as a pelican hook which can be readily opened in case of emergency.

(q) Flat-bed trucks, dump trucks, and pickups which are occasionally used for the transportation of employees shall not be put to such use unless the following conditions, where applicable, are complied with:

(1) Where possible, all employees shall ride in the driver's compartment or cab.

(2) Flat-bed trucks shall be protected on sides and ends, and employees shall sit on the truck bed.

(3) Pickup tailgates shall be closed, or equivalent closure provided, and employees shall sit on the truck bed.

(4) Dump truck body shall have the body secured or the hoist lever locked, tailgates shall be closed, and employees shall sit on the truck bed.

(5) Employees shall not be permitted or required to ride on the top of side rails, top of cabs, running boards, on fenders, on the hood, or with their legs hanging over the end or sides.

Exception: A limit of two (2) employees may be permitted to ride on beds of trucks that do not comply with (2), (3), and (4) above provided they stand or sit immediately behind the cab, holding on to suitable grabirons which are rigidly fastened to the truck.

History: 1. Amendment filed 1-19-55; effective thirtieth day thereafter (Register 55, No. 2).
2. Amendment filed 8-23-60; effective thirtieth day thereafter (Register 60, No. 19).

3414. Riding Loads. Employees shall not ride on top of loads that may dangerously shift, topple over or otherwise become unstable. Employees shall be seated if riding on a load.

3415. Securing Loads. All loads shall be secured against dangerous displacement either by proper piling or securing in a manner as to prevent shifting, toppling over, or otherwise becoming unstable.

APPENDIX B—EXHIBIT 8

16216. Authority for Article. This article is adopted pursuant to the provisions of Section 76 and 2415 (e) of the California Labor Code. Its purpose is to implement, interpret, and make specific, and otherwise carry out the provisions of Division 2, Part 9, Chapter 1, Article 4 of the Labor Code.

16217. Application and Scope. The provisions of this article shall apply to camps and labor supply camps as defined under Section 2410 of Division 2, Part 9, Chapter 1, Article 4, of the Labor Code. Any section of the California Administrative Code requiring a structural change shall not be construed as retroactive in or on an existing structure on the effective date of this article.

16218. Enforcement. The Division of Housing shall enforce all the provisions of this article.

IMPORTANT: Implementary provisions of these regulations are shown on the following pages at the end of each section of the Labor Code to which they apply.

2410. (a) "Sleeping place" includes a bunkhouse, tent or other structure or shelter in which employees are housed in any camp.

(b) "Camp" means any living quarters, dwelling, boarding house, tent, bunkhouse, maintenance of way car, trailer coach or other housing accommodations, maintained in connection with any work or place where work is being performed, and the premises upon which they are situated and/or the area set aside and provided for camping of five or more employees by the employer.

(c) "Bed" includes bunk and bed.

(d) "Camp" shall mean labor camp.

(e) "Camp" shall also mean a labor supply camp. A labor supply camp is hereby defined to be any place, area or piece of land where a person engages in the business of providing sleeping places or camping grounds for five or more employees or prospective employees of another.

(Amended by Stats. 1947, Ch. 934.)

(Amended by Stats. 1949, Ch. 1456.)

NOTE: 16221. Suitable Sleeping Places. *(a) "Suitable sleeping places" means structures having the qualities of stability, fire safety, and effectiveness for the protection of the life, health, and safety of the occupants.*

(b) For the purpose of this article a tent shall be defined as any structure or enclosure constructed entirely, or in part, of canvas or other combustible fabric.

(c) Tents shall not be considered as "suitable sleeping places" when heating equipment is required as specified in Section 16222 (a).

(d) Tents shall have tight wooden floors, raised at least four (4) inches above ground level and having baseboards on each side to a height of at least six (6) inches. Concrete slabs with finished surface at least four (4) inches above grade and having baseboards on each side to a height of at least six (6) inches are suitable in lieu of wooden floors.

16224. Camps. *(a) "Temporary camp" means a camp which is not operated on the same site annually and which is established for one operation and is then removed.*

(b) "Seasonal camp" means any camp which is operated annually on the same site and which is occupied for not more than one hundred and twenty (120) days in any calendar year.

(c) "Permanent camp" means any camp which is not defined as "temporary" or "seasonal."

2410.4. Every owner or operator of a camp shall register such camp with the Division of Housing annually. Such registration shall be done prior to January 31 of each year, and shall apply to every camp whether occupied or not.

Prior to the construction or establishment of any new or additional camp, the owner or operator thereof shall notify the division and register such camp prior to occupancy; except that under emergency conditions such notification and registration may be made not later than five days after occupancy.

Registration shall be on forms supplied by the division and shall contain the following information:

(a) The name and address of the owner and/or the operator.

(b) The location of the camp.

(c) The dates and period or periods of intended occupancy.

(d) The number of occupants proposed to be housed.

(e) A complete description of the facilities comprising the camp.

The information required by subdivisions (b) to (e), inclusive, may be omitted after initial registration if there has been no change therein since the last previous registration.

(Added by Stats. 1961, Ch. 1309.)

2410.5. The provisions of this article are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this article; provided, any such alternate has been approved.

The enforcement agency may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this article in quality, strength, effectiveness, fire resistance, durability, safety and for the protection of life and health.

(Added by Stats. 1957, Ch. 1903.)

NOTE: 16220. Approvals. *(a) "Approved" shall mean any material, appliance, device, fixture, arrangement, method of construction, or installation, determined by the division to afford protection of the health and safety of the public and occupants of labor camps or labor supply camps.*

(b) The Division of Housing may require that sufficient evidence be submitted to substantiate any claim that may be made regarding the use of any equivalent.

2411. In any camp and labor supply camp suitable sleeping places shall be provided for all employees; provided, however, that where employees furnish their own camping equipment, the employer shall provide and set aside a clean and well drained camping ground suitable for the purpose and subject to the provisions of this act.

(Amended by Stats. 1949, Ch. 1456.)

NOTE: 16221. Suitable Sleeping Places. *See note following Section 2410.*

NOTE: 16228. Drainage. *The camp premises shall be free from depressions in which water can stand. Natural sinkholes, pools, swamps, or other surface collectors of water within two hundred (200) feet of the periphery of the camp shall be either drained or filled to remove the quiescent surface water except that areas such as irrigation drain ditches, etc., containing water not subject to such drainage or filling shall be treated with oil or other larvicide to prevent the breeding of mosquitoes or other vectors.*

16229. Location. *Camp structures shall be located not less than seventy-five (75) feet from barns, pens, or similar quarters of livestock or poultry.*

16230. Lighting. *(a) Sufficient artificial illumination shall be provided to afford safe ingress and egress for the occupants of all living and sleeping quarters.*

(b) **Electrical Lighting.** *Where electrical service is available it shall be utilized to provide artificial illumination.*

16231. Electrical Wiring. *All electrical wiring shall be installed and maintained in accordance with the provisions of the Electrical Safety Orders of the State of California.*

16232. Fire Hazards. *Neither any article or material that is dangerous or detrimental to life or to the health of the occupants of living or sleeping quarters nor any material the enforcement agency determines may create a fire hazard, shall be kept stored or handled in any part of such quarters, or adjacent to such quarters.*

2412. Sleeping places shall be in good structural condition and constructed so as to provide shelter to the occupants against the elements and to exclude dampness. Sleeping places shall be kept clean and free from vermin and matter of an infectious or contagious nature. The grounds around sleeping places shall be kept clean and free from accumulations of dirt, filth, garbage, and deleterious matter.

NOTE: 16221. Suitable Sleeping Places. *See note following Section 2410.*

NOTE: 16226. Structural Condition. *(a) "Good structural condition" means that structure shall be constructed in conformity with accepted practices and methods and maintained in a safe condition and in good repair, with floors, walls, ceilings, and roofs plumb and true and well-braced.*

(b) **Floors.** *Floors in buildings shall be constructed of wood, concrete, or other comparable material.*

(1) Wooden floors shall be maintained tight with not less than eighteen (18) inches air space between the floor and the ground beneath with ventilating openings to permit free circulation of air. The space below the floor shall not be used for storage purposes and shall be maintained free of rubbish and impedimenta.

(2) All concrete floors shall be smooth-finished and the floor level shall be at least four (4) inches above the exterior grade.

16227. Maintenance. *Effective measures shall be taken to maintain all sleeping places, equipment, and the grounds in a sanitary condition and to ensure freedom from vermin, rodents, flies, mosquitoes, bedbugs, or other vectors or parasites in all buildings, camp grounds, and equipment. When vermin are found or reported, extermination measures shall be undertaken immediately.*

NOTE: 16228. Drainage. *See note following Section 2411.*

16229. Location. *See note following Section 2411.*

16231. Electrical Wiring. *See note following Section 2411.*

16232. Fire Hazards. *See note following Section 2411.*

2412.5. Every sleeping place more than one story in height shall have not less than two exits from every story above the

APPENDIX B—EXHIBIT 8—Continued

first story, at least one of which shall be an exterior means of egress leading to the ground. The exits shall be constructed as directed by the enforcement agency and maintained to the satisfaction of said agency.

NOTE: 16233. Means of Egress. *(a) For buildings more than one story in height at least one exit shall be an exterior stairway located so as to afford an alternate means of escape.*

(b) Stairways shall be constructed of incombustible material or wood not less than two (2) inches nominal thickness with treads of not less than ten (10) inches and risers not more than seven and one-half (7½) inches.

(c) Stairways serving an occupant load of more than fifty (50) shall be not less in width than forty-four (44) inches.

Stairways serving an occupant load of fifty (50) or less may be thirty-six (36) inches in width.

Stairways serving an occupant load of ten (10) or less may be thirty (30) inches in width.

(d) Stairways shall have handrails on each side. The vertical height of handrails above the tread nosing in line with the base of the riser shall be not more than thirty-four (34) inches nor less than thirty (30) inches.

(e) Access to exterior stairways shall be by a standard door and balcony with railings conforming to subsection (d).

2413. Every sleeping place shall contain at least 340 cubic feet of air space for each occupant thereof; provided, however, that in seasonal camps if adequate ventilation is otherwise provided a minimum of 300 cubic feet may be allowed.

(Amended by Stats. 1947, Ch. 934.)

NOTE: 16223. Ventilation. *(a) For the purpose of this article ventilation shall mean the process of supplying or removing air, by natural or mechanical means, to or from any space.*

(b) Adequate ventilation otherwise provided shall mean window area equal to one-sixth (⅙) of the floor area, or additional mechanical ventilation in the amount of fifteen (15) cubic feet per minute, per occupant.

NOTE: 16224. Camps. *See note following Section 2410.*

2413.5. Every sleeping room or kitchen in a labor camp shall be provided with one or more windows having an aggregate area of not less than one-eighth of the floor area of the room.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16234. Window. *"Window" means an opening to supply natural light and ventilation and which opens directly into an outside area open and unobstructed to the sky.*

2413.6. All windows in rooms used for dining, cooking, or sleeping purposes shall be fitted with screening of at least 16″ mesh. Windows required by this article shall be so arranged that one-half of their aggregate area may be open.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16234. Window. *See note following Section 2413.5.*

2414. Suitable and separate beds shall be provided for all employees. Such beds shall be made of steel, canvas, or other sanitary material, and shall be so constructed as to afford reasonable comfort to the occupants.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16235. Suitable Beds. *Every bed, bunk, or cot shall have at least ten (10) inches from the floor to its underside.*

2415. (a) A clear space of at least 30 inches extending from the floor to the ceiling or roof of any sleeping place shall be allowed between each bed therein.

(b) In every sleeping place the ceiling height shall be at least an average of eight feet from finished floor to finished ceiling or to the roof if there is no ceiling.

(c) At least four feet of clear space shall be allowed between each set of double deck bunks having one tier above the other.

(d) There shall be not more than two tiers of beds, one above the other.

(e) The division shall require adequate standards of heating and ventilation.

(Added by Stats. 1957, Ch. 1903.)

NOTE: 16222. Heat. *(a) Heating equipment shall be installed in all sleeping places when it is found necessary to do so in order to maintain a minimum temperature of sixty (60) degrees Fahrenheit during the period of occupancy. Official weather records shall be used to determine temperatures of any area.*

(b) Heating appliances shall be mounted as follows: Space or room heaters burning gas, solid, or liquid fuel when mounted on combustible flooring shall have four (4) inches of open space under the base of the appliance, and the flooring shall be protected with sheet metal of not less than 24 U. S. gauge, extending six (6) inches beyond the appliance on all sides, and where solid fuel is used shall extend not less than eighteen (18) inches at the front or side where ashes are removed.

Heating appliances burning gas, solid, or liquid fuel shall have a distance from combustible materials as set forth in Table 1, or shall be installed per manufacturer's instructions.

TABLE I

Distance From Combustible Construction
(Inches)

	Jackets, Sides, Rear
Circulating space heaters (gas fired)	*6*
Recessed wall heaters (gas fired)	*Flush*
Circulating space heaters (solid or liquid fuel)	*12*
Recessed wall heaters (solid or liquid fuel)	*Flush*
Radiant heaters (solid or liquid fuel)	*36*

All heating appliances using gas or liquid fuel shall have a shut-off valve in the fuel supply line immediately adjacent to the appliance, but not a part of the appliance.

All heating appliances using gas, solid, or liquid fuels shall be connected to a chimney, metal smoke stack, or an approved special flue in such a manner as to prevent both a fire hazard and a dangerous concentration of the products of combustion of gas; all chimneys and vents shall extend above the roof.

NOTE: 16223. Ventilation. *See note following Section 2413.*

NOTE: 16236. Bed Separation. *Where it will not obstruct light and ventilation it shall be deemed adequate separation between beds when a partial partition, consisting of solid standard building materials, is installed which shall extend the full length of the beds.*

This partition shall be not less than ten (10) inches above the floor and a minimum of twenty-four (24) inches above the topmost bed or bunk. There shall be a minimum of eighteen (18) inches clearance between the top of the partition and ceiling or the underside of the roof if there is no ceiling.

2416. An employee, upon his request, shall be supplied with a mattress or some equally comfortable bedding for which a reasonable charge, deductible from [illegible] wages, may be made.

(Amended by Stats. 1947, Ch. 934.)

2417. Every structure used as a mess hall where food is cooked, prepared or served in a camp shall be kept in a clean and sanitary condition and the openings thereof shall be screened.

(Amended by Stats. 1947, Ch. 934.)

NOTE: 16237. Mess Hall — Kitchens — Maintenance and Facilities. *(a) Ranges in kitchens designed to serve ten (10) or more persons shall be provided with a metal range hood connected to a vent terminating outside the building.*

(b) Screening shall be maintained mosquitoproof.

(c) **Kitchens.** *In structures where five (5) or more employees are permitted or required to cook for themselves, other than a structure occupied by one family, a separate room shall be provided and equipped for use as a kitchen.*

(d) **Refrigeration.** *Provision shall be made for safe storage and refrigeration of food.*

(e) **Sanitation.** *The floors, walls, ceilings, tables, and shelves of all kitchens, dining rooms, refrigerators, and food storage rooms shall be of such materials that they can always be maintained in a clean and sanitary condition.*

(f) **Shelves, Containers.** *Sufficient shelving shall be installed in or near the kitchen or mess hall to store all food supplies off the floor. Metal or other approved containers with tight-fitting covers shall be provided for the storage of all opened bulk food supplies.*

16240. Mess Hall. *(a) "Mess Hall" means a structure or part of a structure which is built, maintained, or intended for the serving of food to five (5) or more employees.*

(b) "Kitchen" means a structure or part of a structure which is built, maintained, or intended for use in the preparation, cooking, and storage of food.

2417.5. All utensils in which food is prepared or kept, or from which food is to be eaten, and all implements used in the eating of food shall be kept in a clean, unbroken and sanitary condition.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16237. Mess Hall — Kitchens — Maintenance and Facilities. *See note following Section 2417.*

2417.6. Every kitchen in a mess hall shall be equipped with a metal sink and shall have an adequate supply of hot and cold water provided.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16238. Metal Sink. *"Metal sink" means a two-compartment sink, of not less than eighteen (18) gauge, each compartment not less in dimension than eighteen (18) inches by eighteen (18) inches by twelve (12) inches and having a minimum of two (2) feet of drainboard on each side with a minimum of six (6) inch backsplash constructed of such materials to be maintained sanitary and impervious to water.*

16239. Kitchen Water Heating. *A continuous supply of hot running water for kitchen use in mess halls shall be available in all camps.*

16243. Water Supply. *(a) The water supply shall be capable of delivering at least thirty-five (35) gallons of water per person per day.*

(b) **Water Pressure.** *Where water is distributed under pressure the system shall be capable of supplying at least two and one-half (2½) times the average hourly demand. The distribution lines shall be capable of supplying water at normal operating pressure to all fixtures.*

(c) **Water Tests.** *A water sample from the camp's supply shall be submitted to a recognized testing agency for bacteriological examination prior to the initial operation of the camp, when any major repair to or alteration of the water supply system has been made, or when the purity of the water is questionable.*

(d) **Wells.** *The well and the well casing shall be effectively sealed to prevent the entrance of drainage water or other foreign material into the water supply.*

(e) **Drinking Cups.** *The use of a common drinking cup is prohibited.*

2417.7. Rooms used for the cooking and preparation or storage of food in a mess hall shall not be used for sleeping purposes.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16237. Mess Hall — Kitchens — Maintenance and Facilities. *See note following Section 2417.*

16240. Mess Hall. *See note following Section 2417.*

2418. (a) Convenient and suitable bathing facilities maintained in a sanitary condition shall be provided in every camp.

(b) One shower for each sex shall be provided for each 15 employees.

(c) The floors and walls of shower compartments shall be constructed and maintained in waterproof condition.

(d) Each shower shall be provided with hot and cold water.

(Amended by Stats. 1947, Ch. 934.)

NOTE: 16241. Bathing Facilities. *(a) "Waterproof condition" means concrete, metal, or other material impervious to water applied and maintained to preclude the penetration of moisture.*

(b) **Floors and Walls.** *The floors of shower compartments shall be of nonskid finish, impervious to moisture and sloped to drain. Minimum two (2) inch floor drains properly trapped shall be provided in all shower baths and shower rooms to remove waste water and facilitate cleaning. Walls and partitions of shower compartments shall be waterproofed to a height of not less than six (6) feet above the floor.*

(c) **Windows.** *Shower buildings shall have a window area of not less than three (3) square feet for each shower and opening directly to the outside air. The total window area need not exceed one-eighth (⅛) of the floor area of the room. Ventilation shall be provided equal to not less than one-half the required aggregate window area.*

(d) **Water Supply.** *Shower baths in all camps shall have a continuous supply of hot and cold running water of sufficient capacity to supply the maximum number of persons to be accommodated.*

2419. There shall be not less than one water closet for each sex for every 15 employees or fractional part thereof living in a labor camp; provided, that with the approval of the enforcement agency other types of toilet facilities may be allowed. A privy vault shall consist of a pit at least two feet deep, with a well constructed shelter, the openings of which shall be effectively screened. When the excreta reaches a point one foot below the surface of the ground the pit shall be filled and the shelter demolished or moved over a new pit. All excreta in a pit shall be covered with earth, ashes, lime or some similar substance.

Privy toilets shall not be located closer than 75 feet to any sleeping place or any kitchens and/or mess hall.

All toilet facilities shall be constructed and maintained to the satisfaction of the enforcement agency.

(Amended by Stats. 1947, Ch. 934.)

NOTE: 16220. Approvals. *See note following Section 2410.5.*

NOTE: 16242. Toilet Facilities. *(a) Water flush toilets are required in all labor camps, provided, however, that with the written approval of the enforcement agency other approved types of toilet facilities may be permitted in:*

(1) Temporary labor camps.

(2) Camps with a designed capacity not to exceed fifteen (15) occupants, located in an area of low residential density and operated not more than ninety (90) days in any calendar year.

(3) Camps where it is evident that there is an inadequate water supply.

(4) Camps where it is evident that soil conditions preclude the use of a sewage disposal system.

(b) Approval of the installation and use of other types of toilet facilities shall be contingent upon strict compliance with the applicable sections of the Labor Code pertaining to maintenance and sanitation.

(c) (1) A well constructed shelter shall mean a structure the floors and walls of which shall be built of tight-fitting material, such as T & G or equal, constructed and maintained fly-tight.

(2) Doors shall be tight fitting with self-closing devices.

(3) Ventilating openings shall comply with subsection (d) of this section.

(4) The vault shall be provided with a vent stack extended above the roof.

(d) **Windows.** *Toilet rooms shall have a window not less than three (3) square feet in area for each toilet and opening directly to the outside air. The total window area need not exceed one-eighth (⅛) of the floor area of the room. Ventilation shall be provided equal to not less than one-half of the required aggregate window area.*

(e) **Location.** *Toilets shall be located not more than two hundred (200) feet from sleeping quarters.*

(f) **Urinals.** *One of every three required water closets may be substituted with an approved urinal. Every twenty-four (24) inches of urinal trough shall be equal to one (1) urinal unit. Urinals shall be of cast iron enamel, vitreous china, or approved equivalent. The floor space to a point one (1) foot in front of the urinal lip and the wall to a point four (4) feet above the floor and at least one (1) foot to each side of the urinal shall be faced with a nonabsorbent material.*

(g) **Hand Washing.** *Wash basins or hand washing facilities with a continuous supply of hot and cold running water shall be provided at the ratio of one for every thirty (30) occupants of the camp. Where wash troughs are used,*

APPENDIX B—EXHIBIT 8—Continued

every twenty-four (24) inches of trough shall be equal to one (1) wash basin. Hand washing facilities shall be lined with waterproof material.

(h) **Screen Doors.** *Screen doors of all toilet buildings shall be mosquito-proof and shall be equipped with self-closing devices.*

2419.5. All exterior openings in toilet buildings shall be screened with wire mesh of not less than 16 mesh.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16242. Toilet Facilities. *See note following Section 2419.*

2419.6. All toilet facilities shall be maintained in a clean and sanitary condition at all times.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16242. Toilet Facilities. *See note following Section 2419.*

2420. (a) All garbage, kitchen waste, and rubbish in camp shall be deposited in suitable covered metal receptacles which shall be emptied daily or oftener if necessary, and the contents burned, buried, or otherwise disposed of in a manner which is not or does not become offensive or insanitary.

(b) All drainage from the kitchen sink, toilets, baths, and laundry shall be carried through a covered drain to a covered cesspool or septic tank, or otherwise disposed of in such a way as not to become offensive or insanitary.

(Amended by Stats. 1947, Ch. 934.)

2420.5. (a) Fresh and pure drinking water shall be provided for all employees.

(b) All faucets shall be suitably and conveniently placed and shall discharge into sinks or hoppers and the drainage shall not be allowed to flow upon the ground or to contaminate the source of water supply.

(c) Tanks or other receptacles used for the storage of water shall be kept in a clean and sanitary condition and shall be covered so as to prevent contamination.

(Added by Stats. 1947, Ch. 934.)

NOTE: 16243. Water Supply. *See note following Section 2417.6.*

2421. Every person, or the agent or officer thereof, employing persons to work in or at camps to which this article applies and the superintendent or overseer in charge of the work in or at such camps shall carry out the provisions of this article. At every camp a responsible person shall be appointed to assist in keeping the camp clean.

NOTE: 16244. Duties of Caretaker. *The camp owner, operator, or caretaker shall inspect the grounds, buildings, structures, tents, toilets, showers, laundry, messhall, dormitories, kitchen, and any other facilities relating to the operation of the camp and ascertain that each is maintained in a clean and orderly condition and that broken screening and other elements of structure of the buildings are promptly repaired.*

2422. The Division of Housing shall administer and enforce this article and for such purpose the officers and agents thereof may:

(a) Enter public or private property to determine whether there exists any camp to which this article applies.

(b) Enter and inspect all camps wheresoever situated, and inspect all accommodations, equipment, or paraphernalia connected therewith.

(c) Enter and inspect the land adjacent to the camp to determine whether the sanitary and other requirements of this article have been or are being complied with.

(Amended by Stats. 1945, Ch. 1431.)

2423. Any camp which does not conform to this article is a public nuisance and if not made to conform within five days or within such longer period of time allowed by the Division of Housing after written notice given by the commission shall be abated by proper action brought in the superior court of the county in which the camp, or the greater portion thereof, is situated.

(Amended by Stats. 1945, Ch. 1431.)

2424. For the purposes of securing the enforcement of this article the officers and agents of the Division of Housing shall have the authority of peace officers to make arrests, to serve any process or notice throughout the State and such other authority of peace officers as may become necessary in securing the enforcement of this article.

(Amended by Stats. 1945, Ch. 1431.)

2425. Any person who violates, or causes another person to violate, any provision of this article is guilty of a misdemeanor, punishable by a fine of not more than two hundred dollars ($200), or imprisonment for not more than sixty days (60 days) or both.

(Amended by Stats. 1947, Ch. 934.)

NOTE: 16246. Employee's Responsibility. *Every employee and occupant of a camp shall properly use the sanitation and other facilities furnished and shall comply with all the sanitation and maintenance provisions of Division 2, Part 9, Chapter 1, Article 4 of the Labor Code and all such provisions of these rules and regulations.*

APPENDIX B—EXHIBIT 9

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, December 24, 1962

HONORABLE JAMES A. COBEY
P. O. Box 1229
Merced, California

"LABOR DISPUTES" AND "TRADE DISPUTES"

#5781

DEAR SENATOR COBEY:

QUESTION

What difference if any is there between a "trade dispute" and a "labor dispute" for the purpose of administering:

(1) The Wagner-Peyser Act (U.S.C.A., Title 29, Secs. 49 et seq.), with respect to the referral and placement of agriculture workers.

(2) The California Unemployment Insurance Code, with respect to unemployment compensation.

(3) The Migrant Labor Agreement of 1951 and Public Law 78 of the 82d Congress, with respect to employment of Mexican Nationals.

OPINION AND ANALYSIS

Wagner-Peyser Act

The Wagner-Peyser Act relates generally to the establishment of a national employment system for the referral and placement of workers. Except for a provision directing the Secretary of Labor to provide for the giving of notice of the existence of strikes and lockouts to job applicants before they are referred to employment (U.S.C.A. Title 29, Sec. 49j), the act itself contains nothing concerning the referral or placement of workers in labor or trade dispute situations. The Secretary of Labor is, however, by the terms of the act expressly authorized to make rules and regulations necessary to carry out its provisions (U.S.C.A. Title 29, Sec. 49k), and under this authorization he has promulgated a regulation prohibiting the referral of a person to a position the filling of "which will aid directly or indirectly in filling a job which: (1) is vacant because the former occupant is on strike or being locked out in the course of a labor dispute, or (2) is an issue in a labor dispute"

(C.F.R. Title 20, Sec. 602.2, subd. b). The California Supreme Court has held this to be a valid exercise of the Secretary's rule-making power under the act *(Di Giorgio Fruit Corp.* v. *Dept. of Employment* (1961), 56 Cal. 2d 54).

The California Department of Employment conducts placement operations in California pursuant to the Wagner-Peyser Act, the rules and regulations of the Secretary, and Sections 2051 to 2058, inclusive, of the California Unemployment Insurance Code. Sections 2051 to 2058, inclusive, of the Unemployment Insurance Code do not contain any references to "labor disputes" or "trade disputes." The department has not promulgated any rules or regulations defining "labor dispute" or "trade dispute." It has, however, for many years prescribed in its local office manual a definition of the phrase "labor dispute" for the direction of department personnel engaged in placement activities. This definition is patterned after provisions defining that phrase for purposes of certain federal statutes dealing with labor and management relations and related matters.

We are informed that for some years the department's definition was patterned after that contained in the National Labor Relations Act (see U.S.C.A. Title 29, Sec. 152, subd. 9). At the present time, however, it reads exactly the same as the definition of "labor dispute" contained in the Norris-LaGuardia Act (U.S.C.A. Title 29, Sec. 113, subd. c). That definition reads as follows:

> "The term 'labor dispute' includes any controversy concerning terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the approximate relation of employer and employee."

Insofar as we are aware, the term "trade dispute" is not used by the Department of Employment in this connection.

We have been unable to find any court decision where the terms "labor dispute" and "trade disputes" were defined or distinguished in connection with the Wagner-Peyser Act or the regulations of the California Department of Employment relating thereto.

California Unemployment Insurance Code

The California Unemployment Insurance Code relates, among other things, to the payment of unemployment and disability compensation to employees who are out of work. Section 1262 of that code provides, among other things, that an individual is not eligible for unemployment compensation benefits if he left his work because of a "trade dispute." The Unemployment Insurance Code does not contain any other reference to "trade dispute," nor does it contain any reference to "labor dispute."

The Department of Employment has taken the position that the terms "labor dispute" and "trade dispute" are synonymous (see California Unemployment Insurance Appeals Board Benefit Decision No. 5527, Case No. 12906, In the Matter of Fred W. Hekkala), and the term "trade dispute" is defined in the local office manual of the department in the same manner in all material respects as the definition of "labor dispute," quoted above, with respect to the department's placement activities.

Insofar as we are aware, the California courts have never expressly defined the term "trade dispute" for the purpose of Section 1262. A California court has discussed the term "trade dispute" in a case where the court was concerned with Section 973 of the Labor Code, which relates to the soliciting of employees while a "trade dispute" is still in active progress *(People* v. *Smith* (1955), 133 Cal. App. 2d Supp. 777). There the court alluded to the use of the term in Section 1262 in the following language (p. 782):

> ". . . The scope and meaning of the term 'trade dispute' in this statute [Section 1262 of the Unemployment Insurance Code] have been frequently before the courts, and while no decision has formulated a definition of it, the courts have apparently had no difficulty in ascertaining whether a particular situation was or was not within its meaning, nor have any of the decisions suggested that there was any uncertainty about it. See the following cases in which this matter was discussed: *Bodinson Mfg. Co.* v. *California Emp. Com.* (1941), 17 Cal. 2d 321, 324 [109 P. 2d 935]; *Matson Terminals, Inc.* v. *California Emp. Com.* (1944), 24 Cal. 2d 695, 702 [151 P. 2d 202]; *American-Hawaiian Steamship Co.* v. *California Emp. Com.* (1944), 24 Cal. 2d 716, 719 [151 P. 2d 213]; *W. R. Grace & Co.* v. *California Emp. Com.* (1944), 24 Cal. 2d 720, 727 [151 P. 2d 215]; *Bunny's Waffle Shop, Inc.* v. *California Emp. Com.* (1944), 24 Cal. 2d 735, 740-741 [151 P. 2d 224]; *Mark Hopkins, Inc.* v. *California Emp. Com.* (1944), 24 Cal. 2d 744, 748 [151 P. 2d 229, 154 A.L.R. 1081]; *McKinley* v. *California Emp. Stab. Com.*, supra (1949), 34 Cal. 2d 239, 242; *Thomas* v. *California Emp. Stab. Com.* (1952), 39 Cal. 2d 501, 505, [247 P. 2d 561]. In all of these cases the term 'trade dispute' has been regarded as relating to the relations between employers and those who did or might work for them. It extends to contentions between employers and unions, even though no members of the union are then working for such employers. From the decisions in these cases, a sufficiently accurate meaning for the term may be found to justify its use in a statute."

The *Smith* case (supra, at p. 782) also indicated that the term "trade dispute" applies only to "matters affecting the relation between employers and those who work or might work for them," thus eliminating "the possibility . . . that the phrase 'trade dispute' might refer to disputes between tradesmen as to customers and other matters."

Finally, with respect to the differences, if any, between a "trade dispute" under Section 1262 and a "labor dispute," we note that California courts have used these terms interchangeably in several cases involving Section 1262 (see, for example, *McKinley* v. *Cal. Emp. Com.* (1949), 34 Cal. 2d 239, 242; *Bunny's Waffle Shop* v. *Cal. Emp. Com.* (1944), 24 Cal. 2d 735, 740; *Chrysler Corp.* v. *Calif. Unemp. Ins. Appeals Bd.* (1962), 199 Cal. App. 2d, 683, 687).

Migrant Labor Agreement of 1951 and Public Law 78 of the 82d Congress

The Migrant Labor Agreement of 1951 * (Bracero Treaty) is a treaty entered into between the government of the United States and the Republic of Mexico, spelling out the procedures and conditions under which Mexican nationals are to be admitted to the United States for the performance of agricultural labor.

With respect to labor disputes, Article 22 of the agreement specifies that "No Mexican worker shall be used to fill any job which the Secretary of Labor finds is vacant because the occupant is out on strike or locked out in the course of a labor dispute." The agreement contains nothing which purports to define a "labor dispute" nor does it refer to "trade disputes."

Public Law 78 of the 82d Congress (U.S.C.A., Title 7, Secs. 1461-1468) implements the Migrant Labor Agreement of 1951, and vests in the Secretary of Labor various powers and responsibilities in the operation of the program for utilization of Mexican nationals for agricultural labor pursuant to arrangements between the United States and the Republic of Mexico.

Public Law 78 makes no provision concerning "labor dispute" or "trade dispute" or the promulgation of definitions or standards in connection therewith, though provision is made specifying that recruited workers shall not be available for employment in any area unless the Secretary of Labor has determined and certified that sufficient qualified domestic workers are not available, that employment of the workers will not adversely affect the wages and working conditions of domestic workers similarly employed, and that reasonable efforts have been made to attract domestic workers (Sec. 1463).

We have been unable to discover any court decisions wherein the terms "labor dispute" or "trade dispute" have been discussed with respect to the Migrant Labor Agreement of 1951 or Public Law 78 of the 82d Congress.

Very truly yours,

A. C. MORRISON
Legislative Counsel
By SHERWIN C. MACKENZIE, JR.
Deputy Legislative Counsel

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* The instrument is set out in summary in Volume 2, U.S. Code Congressional Administrative Service (82d Congress), p. 2593.

APPENDIX B—EXHIBIT 10

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, February 9, 1961

HONORABLE JAMES A. COBEY
Senate Chamber

PLACEMENT OF WORKERS UNDER THE WAGNER-PEYSER ACT
No. 6504

DEAR SENATOR COBEY:

QUESTION

You ask whether the defining of the term "labor dispute" for purposes of placement operations under the Wagner-Peyser Act, is a matter of federal or of state determination.

OPINION

In our opinion, the ultimate authority in these respects rests with the federal government; and though there is nothing to prohibit a state from establishing some such standard for referral purposes, any such undertaking would entail the risk that the state's operations under the national system might be determined to be out of conformity with the federal law, and implementing regulations and standards.

ANALYSIS

The Wagner-Peyser Act (U.S.C.A., Title 29, Secs. 49 et seq.) is a federal statute which establishes the uniform national system of public employment offices.

In order to obtain the benefits of various federal appropriations made for the purposes of operating the system a state must, through its legislature, accept the provisions of the act, comply with them, continuously co-operate with and conform to the directions of the Secretary of Labor in the conduct of the system within the state, and conduct its operations in accordance with the rules and regulations and the standards of efficiency prescribed by the secretary. The Secretary of Labor is charged with the duty and responsibility of approving the detailed plans of any states desiring to accept the provisions of the act, and of ascertaining whether states which have joined the system are continuously co-operating and in conformity with the federal law and implementing regulations and standards (U.S.C.A., Title 29, Secs. 49c, 49d, 49g, 49h).

No provision is made in the act concerning "labor dispute" standards, either by way of expressly vesting any officer or body with such authority, or by expressly or impliedly denying such authority to any officer or body—though the secretary is given the general power to promulgate rules and regulations (U.S.C.A., Title 29, Sec. 49k). It is specified that the secretary is authorized to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment (U.S.C.A., Title 29, Sec. 49j); and the secretary has promulgated a regulation governing referrals in "labor dispute" situations, but without defining the expression (C.F.R., Title 20, Part 602, Sec. 602.2).

From the provisions of the act and its apparent purpose, as outlined above, it seems self-evident that the ultimate authority to adopt "labor dispute" standards rests with federal government. Though there appears to be nothing to prohibit an accepting and co-operating state from adopting such standards, any such undertaking would, of course, entail the risk that the state's system would be found by the Secretary of Labor to be out of conformity with the federal law and implementing regulations and standards, with the result that the state's entitlement to federal financial assistance would be terminated.

Very truly yours,

RALPH N. KLEPS
Legislative Counsel
By ERNEST H. KUNZI
Deputy Legislative Counsel

APPENDIX B—EXHIBIT 11

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, November 21, 1962

HONORABLE JAMES A. COBEY
P.O. Box 1229
Merced, California

DEPARTMENT OF EMPLOYMENT PLACEMENT SERVICE OPERATIONS
No. 5606

DEAR SENATOR COBEY:

QUESTION

With reference to provisions of the Department of Employment's Local Office Manual which define "labor dispute" for purposes of its job placement operations, you ask:

(1) If the definition is patterned precisely after the definition of the phrase "labor dispute" contained in the National Labor Relations Act, or the definition of that phrase contained in the Norris-LaGuardia Act, would the inapplicability of either of those federal statutes to agricultural labor necessarily render the department's manual definition inapplicable to agricultural labor?

(2) Is the Norris-LaGuardia Act, in fact, inapplicable to agricultural labor?

OPINION

In our opinion:

(1) The fact that either the National Labor Relations Act or the Norris-LaGuardia Act might be inapplicable to agricultural labor would *not* necessarily make inapplicable to agricultural labor the Department of Employment's definition of the phrase "labor dispute" copied, for purposes of placement operations, from either of those acts.

(2) While the National Labor Relations Act is, by its own terms, made inapplicable to persons employed in agricultural labor, there is nothing which exempts agriculture or agricultural labor from the Norris-LaGuardia Act.

APPENDIX B—EXHIBIT 11—Continued

ANALYSIS

(1) The placement operations of the California Department of Employment are conducted pursuant to a federal law, the Wagner-Peyser Act (U.S.C., Title 29, Secs. 49 et seq.), and Sections 2051 to 2058, inclusive, of the California Unemployment Insurance Code. The operations are also controlled by regulations of the Secretary of Labor which implement the Wagner-Peyser Act (see C.F.R., Title 20, Part 602). One of these regulations sets out basic standards to govern the placement of workers in situations where a "labor dispute" exists at the prospective employer's establishment (C.F.R., Title 20, Sec. 602.2(b)).

The Wagner-Peyser Act and the implementing regulations contain no definition of the phrase "labor dispute." However, the Department of Employment has for many years prescribed, in its Local Office Manual, a definition of the phrase "labor dispute" for the direction of department personnel engaged in placement activity. This definition is patterned after provisions defining that phrase for purposes of certain federal statutes dealing with labor-management relations and related matters. We are informed that for some years the department's definition was patterned precisely after that contained in the National Labor Relations Act (see U.S.C., Title 29, Sec. 152, subd. (9)). At the present time it reads exactly the same as the definition of "labor dispute" contained in the Norris-LaGuardia Act (see U.S.C., Title 29, Sec. 113, subd. (c)). That definition reads as follows:

> "The term 'labor dispute' includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee." *

As previously indicated, the placement operations of the Department of Employment are, insofar as the federal law is concerned, conducted under the Wagner-Peyser Act and the regulations of the Secretary of Labor. Any administrative regulations or departmental directives promulgated by the Director of Employment in connection with the program would presumably be directed to implementing this governing federal authority. It has apparently been deemed necessary to provide departmental personnel with a definition of what constitutes a "labor dispute" in connection with the federal regulation setting up certain standards to be complied with in respect to placements in labor dispute situations.

We can conceive of no basis for assuming that because the Director of Employment may have copied his placement operation "labor dispute" directive exactly from a provision in the National Labor Relations Act or one contained in the Norris-LaGuardia Act, the scope of these federal statutes in respect to agricultural labor should govern the scope and effect of his directive. In fact, the Wagner-Peyser Act specifically requires that a national "farm placement service" be maintained (see U.S.C., Title 29, Sec. 49b). We have examined the provisions of both the National Labor Relations Act and the Norris-LaGuardia Act and have found nothing which could be construed as so controlling state administrative directives promulgated under the Wagner-Peyser Act. Neither of the former enactments purports to deal with placement operations in the uniform national system of public employment offices. The National Labor Relations Act deals with labor-management relations in interstate and foreign commerce, and related matters (see U.S.C., Title 29, Secs. 151, 152). The Norris-LaGuardia Act delineates the authority and jurisdiction of the federal courts in labor dispute litigation (see U.S.C., Title 29, Secs. 101 et seq.).

(2) As to the applicability of the National Labor Relations Act and the Norris-LaGuardia Act to agricultural labor, we find that the National Labor Relations Act, in defining the term "employees" specifically excludes, among other classes of persons, "any individual employed as an agricultural laborer" (U.S.C., Title 29, Sec. 152, subd. (d)). We find nothing in the Norris-LaGuardia Act which would exempt agriculture or agricultural labor from the scope or applicability of its provisions.

Very truly yours,

A. C. MORRISON
Legislative Counsel
By ERNEST H. KUNZI
Deputy Legislative Counsel

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* The definition of the phrase "labor dispute" contained in the National Labor Relations Act (U.S.C., Title 29, Sec. 152, subd. (9)) is the same as that in the Norris-LaGuardia Act, except that the former contains a comma and the word "tenure" after the word "terms" appearing in the opening clauses.

APPENDIX B—EXHIBIT 12

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, November 28, 1962

HONORABLE JAMES A. COBEY
P.O. Box 1229
Merced, California

LABOR DISPUTES
#5634

DEAR SENATOR COBEY:

QUESTION

What statutory provisions are there in California law that explicitly define a "trade dispute" or a "labor dispute"?

OPINION AND ANALYSIS

We have found no statutory provisions which explicitly define these terms.

Very truly yours,

A. C. MORRISON
Legislative Counsel
By SHERWIN C. MACKENZIE, JR.
Deputy Legislative Counsel

APPENDIX B—EXHIBIT 13

LABOR DISPUTE—AGRICULTURE

NOTICE

CALIFORNIA DEPARTMENT OF EMPLOYMENT

Trade Dispute No. 60-1587-A

Farmer: V. R. Smith, 215 South Harvard
Mail: P.O. Box 467, Lindsay, California

EMPLOYER: Robert E. Johnson, 883 West Alameda St., Lindsay, California.

Union directly involved: Agricultural Workers Organizing Committee AFL-CIO.
Bruce and Balfour Sts.
Mail: P.O. Box 275, Strathmore, California
Main headquarters office:
805 E. Weber Ave.
Stockton 3, California

Date alleged dispute began: October 22, 1960, approximately 8 a.m.

Alleged issues: Wages and working conditions relative to the olive harvest.

FACTS

The ranch involved in this alleged labor dispute consists of 60 acres of olive trees located on Seventh Avenue between L and M Avenues, Tulare County, about three miles northwest of Strathmore, California.

Robert E. Johnson, labor contractor, had contract with V. R. Smith, ranch owner, to harvest this olive crop. Mr. Johnson is responsible for the direction of the olive pickers. The wage rate of olive picking is set by Mr. Smith.

At the time this alleged labor dispute began about 25 domestic workers supplied by Mr. Johnson, labor contractor, were employed picking olives in this olive orchard at the wage rate of $1.05 per box.

No Mexican nationals were involved.

On Friday, October 21, 1960, Andres Arellano and Wesley Stott, AWOC representatives, contacted Mr. Johnson, labor contractor, and presented the union's demand that the pay rate be increased to $1.25 per box, the scale set by the AWOC for olive picking in this area.

This union demand for $1.25 per box for picking these olives was refused by Mr. Johnson, labor contractor, on the grounds that he could not increase the wage rate as Mr. V. R. Smith, owner, sets the rate for olive picking.

On October 22, 1960 at about 8 a.m., the AWOC established picket lines at this olive orchard.

The harvesting of the olives continued and there is no evidence that any of the olive pickers working in this olive orchard left their work because of this labor dispute.

On October 24, 1960, Mr. Arellano, AWOC representative, mailed a letter and sent a telegram to Mr. Johnson, labor contractor, requesting that Mr. Johnson or Mr. Smith, owner, meet with the AWOC representative and negotiate with the AWOC relative to an increase in wages for these olive pickers. No specific wage was mentioned in either the letter or the telegram.

Mr. Arellano, AWOC representative, contends that this alleged labor dispute is a continuation or renewal of the labor dispute (60-1544-A) which involved another ranch owned by V. R. Smith, which began September 30, 1960 and related to the harvesting of olives.

On October 25, 1960, Mr. Johnson, labor contractor, increased the pay rate to $1.10 per box as authorized by Mr. Smith, owner. Mr. Johnson informed the AWOC of this wage increase. The increase was not acceptable to the AWOC and picketing continued.

V. R. Smith, owner of this olive orchard, was contacted by the department investigator and given an opportunity to make statements. Mr. Smith refused to make any statement other than stating that none of the pickets at this olive orchard have ever worked for him on his ranch.

The demand made by the AWOC on Mr. V. R. Smith, on September 30, 1960 for a wage increase to $1.25 per box for picking olives owned by Mr. Smith also applies with respect to the olive picking in this olive orchard.

DETERMINATION

A labor dispute exists between V. R. Smith, owner, and Robert E. Johnson, labor contractor, and the AWOC and its members, involving this olive orchard.

This labor dispute began October 22, 1960 at about 8:00 a.m.

Since there was no leaving of work in this olive orchard because of this labor dispute no determination under Section 602.2(b), (Title 20, Code of Federal Regulations) need be made.

Since there was no leaving of work because of this labor dispute no determination under Section 1262 of the Unemployment Insurance Code need be made.

APPENDIX B—EXHIBIT 14

LABOR DISPUTE—AGRICULTURE

NOTICE

CALIFORNIA DEPARTMENT OF EMPLOYMENT

Trade Dispute No. 60-1586-A

Farmer: V. R. Smith, 215 South Harvard, Lindsay, California
Mail: P.O. Box 467, Lindsay, California

Employer: Jim Sandoval, farm labor contractor:
Route 3, Box 568, Porterville, California

Union directly involved: Agricultural Workers Organizing Committee AFL-CIO
Bruce and Balfour Streets
Mail: P.O. Box 275, Strathmore, California
Main headquarters office:
805 E. Weber Avenue
Stockton 3, California

Date alleged dispute began: October 24, 1960, approximately 6 a.m.

Alleged issues: Wages and working conditions relative to the olive harvest.

FACTS

The ranch involved in this labor dispute consists of about 160 acres of olive trees located two miles west of Cairns Corner on the corner of Avenue 232 and Road 180 Tulare County, four miles west of Lindsay, California.

Jim Sandoval, labor contractor, has contract with Mr. Smith, owner, to harvest this olive crop.

At the time this labor dispute began, Mr. Sandoval had a crew of about 90 domestic workers employed in this olive orchard picking olives at the wage rate of $1.10 per box.

The wage rate for picking these olives was set by Mr. Smith, owner.

No Mexican nationals were involved.

On October 24, 1960, at about 6 a.m. the AWOC established a picket line at this olive orchard. The AWOC contends this is a continuation or renewal of the labor dispute involving another olive orchard owned by Mr. Smith which began September 30, 1960 (60-1544-A). The pickets in this picket line had not been working in this olive orchard.

Olive picking has continued in this orchard and there is no evidence that any of the olive pickers employed in this olive orchard left their work because of this labor dispute.

On October 24, 1960, at about 8 a.m., Andres Arellano, AWOC representative, sent a letter and a telegram to Jim Sandoval, labor contractor, requesting that Mr. Sandoval and/or Mr. Smith, owner, negotiate with the AWOC relative to an increase in the wage rate for the olive pickers employed in this olive orchard.

APPENDIX B—EXHIBIT 14—Continued

Neither the letter not the telegram contained a specific wage rate desired by the union but the AWOC contends that the demand for $1.25 per box previously made on Mr. Smith, owner, in the prior labor dispute (60-1544-A) which began September 30, 1960, applies to this olive orchard.

V. R. Smith, owner, and Jim Sandoval, labor contractor, have refused to negotiate with the AWOC as requested in the letter and telegram mentioned above.

V. R. Smith, owner, was contacted by a department investigator and was given the opportunity to make a statement but refused other than stating that none of the pickets in the picket line at this olive orchard had ever worked for him on his ranch.

The demand made by the AWOC on Mr. V. R. Smith on September 30, 1960 for a wage increase to $1.25 per box for picking olives owned by Mr. Smith also applies with respect to the wage rate for olive picking in this olive orchard.

DETERMINATION

A labor dispute exists between Mr. V. R. Smith and Jim Sandoval, labor contractor, and the AWOC and its members, involving this olive orchard.

This labor dispute began October 24, 1960, at about 6 a.m.

Since there was no leaving of work in this olive orchard because of this labor dispute no determination under 602.2(b) (Title 20, Code of Federal Regulations) need be made.

Since there was no leaving of work because of this labor dispute no determination under Section 1262 of the Unemployment Insurance Code need be made.

APPENDIX B—EXHIBIT 15

LABOR DISPUTE—AGRICULTURE

NOTICE

TELETYPE

CALIFORNIA DEPARTMENT OF EMPLOYMENT

NOTE:
Read instructions on reverse before using this form

DATE 8-28-2
TIME 9:00 A.M.
DICTATOR'S TEL. EXT. 6687

TO E. HOMO, P. B. JACKSON (NAME) COASTAL 384 L. A. METRO 386 B. ASPINALL 387 (CITY AND OFFICE NUMBER)

FROM PHIL PROTO BY BROWN 40:3 ib

(TYPE MESSAGE IN CAPITAL LETTERS—DOUBLE SPACE)

EMPLOYER: M & J BOGGIANO—62-0980A
POST OFFICE BOX 646, LINDEN, CALIF.
UNION: AWOC, 805 E. WEBER AVE., STOCKTON, CALIF.
BEGAN: 8-14-62
PICKET LINE ESTABLISHED: 8-14-62
ISSUE: UNION DEMANDS

STATEMENT OF FACTS

THE RANCH PROPERTY INVOLVED IN THIS LABOR DISPUTE CONSISTS OF 40 ACRES IN CUCUMBERS LOCATED ON THE SOUTH SIDE OF HIGHWAY 8, ONE-HALF MILE WEST OF ALPINE ROAD AND IS KNOWN AS LINDEN ORCHARDS.

ON JULY 27, 1962, AWOC, AFL-CIO SENT A REGISTERED LETTER TO M. J. BOGGIANO, BOX 646, LINDEN, CALIF. WHO DID NOT ACCEPT DELIVERY OF THE LETTER. THIS LETTER CONTAINED A REQUEST FOR A MEETING FOR THE PURPOSE OF NEGOTIATING A UNION CONTRACT COVERING THE EMPLOYMENT OF DOMESTIC WORKERS, AND THE LETTER CONTAINED A SAMPLE UNION CONTRACT.

ON AUGUST 2 OR 3, 1962, THE LINDEN POST OFFICE NOTIFIED M. J. BAGGIANO THAT THEY WERE HOLDING A REGISTERED LETTER FOR HIM BUT HE DID NOT CALL FOR THIS REGISTERED LETTER.

ON AUGUST 14, 1962, THERE WERE MEXICAN NATIONALS EMPLOYED ON THIS RANCH PROPERTY WORKING IN CUCUMBERS. NO DOMESTIC WORKERS WERE EMPLOYED ON THIS RANCH ON 8-14-2.

ON AUGUST 14, 1962, A PICKET LINE WAS ESTABLISHED BY THE AWOC AT THIS RANCH PROPERTY.

THERE WAS NO LEAVING OF WORK BECAUSE OF THIS PICKET LINE.

DETERMINATION

1. FOR UNEMPLOYMENT INSURANCE AND REFERRAL PURPOSES, A LABOR DISPUTE BETWEEN M & J BOGGIANO AND THE AWOC AND ITS MEMBERS BEGAN 8-14-62.

2. SINCE THERE ARE NO POSITIONS VACANT IN THE RANCH PROPERTY INVOLVED BECAUSE OF THIS LABOR DISPUTE, ANY INDIVIDUAL MAY BE REFERRED TO THE AFOREMENTIONED PLACE OF EMPLOYMENT, PROVIDING HE IS GIVEN WRITTEN NOTICE OF SUCH LABOR DISPUTE PRIOR TO, OR AT THE TIME OF, HIS REFERRAL, UNDER THE PROVISION OF SECTION 602.2(B), TITLE 20 CFR.

3. SINCE THERE IS NO LEAVING OF WORK BY EMPLOYEES ON THIS RANCH, DETERMINATION OF ELIGIBILITY FOR UNEMPLOYMENT INSURANCE BENEFITS UNDER SECTION 1262 OF THE UNEMPLOYMENT INSURANCE CODE NEED NOT BE MADE.

APPENDIX B—EXHIBIT 16

DECISION, THOMAS C. BOWERS v. DEPARTMENT OF EMPLOYMENT OF THE STATE OF CALIFORNIA

Yuba County Superior Court, 1960, No. 35822

THE COURT: The court can render an oral decision at this time. I am of the opinion, though, that a proceeding of this nature requires findings of fact and I don't know that such a decision would constitute such findings. I will state the court's decision and if counsel see any way to expedite matters then they can take it up with the court immediately following the statement of the court's ruling:

It is the court's conclusion and finding that the allegation of the petition regarding substantial injury and irreparable damage has been sustained. I am of the opinion that all other questions of fact have been agreed upon so far as this case is concerned. As we have seen from the very earnest and able comments that have been presented by counsel, there are as many views that can be taken of this situation as there are viewers, but actually this court as the Messinger case, or Messinger decision states, is not here to legislate, but it is here to attempt to determine a simple question of law and that is whether the Secretary of Labor has acted without or in excess of authority in promulgating Section 602.2 (b).

It is the court's conclusion and finding that that regulation is contrary to and violates the other provisions of the Wagner-Peyser Act, particularly the provisions of Section 49 (j) as previously stated at the time the preliminary injunction was issued.

It is this trial judge's opinion that this is a legislative matter and requires attention if it needs change and it is not for me to say one way or the other whether it does or does not, but if it is to be changed it requires attention either by the State Legislature or by Congress, but our State Legislature has adopted the federal law and regulations providing they are lawfully made on this subject. The Congress it appears took into consideration this situation when it provided in Section 49 (j) of the Wagner-Peyser Act that the secretary is authorized and directed to provide for giving—let me restate that—to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment.

It is the court's conclusion that that statutory enactment constitutes the Secretary of Labor's full power and authority regarding that subject and when he attempts to suspend the operations of his department and indirectly of the state department, which is the respondent here by a regulation which is contrary to that statutory enactment, that his regulation must be held to be without force and effect and to be without and in excess of authority.

It is the conclusion and finding of the court that the mandatory writ should be issued.

APPENDIX B—EXHIBIT 17

DECISION, DI GIORGIO FRUIT CORPORATION v. DEPARTMENT OF EMPLOYMENT OF THE STATE OF CALIFORNIA

Yuba County Superior Court, 1960, No. 14706

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF YUBA

DI GIORGIO FRUIT CORPORATION, a corporation,
Petitioner,
vs.
DEPARTMENT OF EMPLOYMENT OF THE STATE OF CALIFORNIA, I. H. PERLUSS, G. NORMAN LONG, JR., and SACHETT BOOTH,
Respondents.
No. 14706

MEMO OPINION ON PETITION FOR WRIT OF MANDATE. WRIT GRANTED.

Petitioner herein seeks a writ of mandate requiring respondents to refer agricultural workers for employment to their ranch for harvesting of their present pear crop. Respondents have filed their return by way of answer.

The main issue involved concerns the provision of the federal Wagner-Peyser Act with reference to referrals where a labor dispute exists.

It is the contention of petitioner briefly that the State of California through its agency the Department of Employment, in accepting the provisions of the act is bound only by such provisions as appear therein and the regulations adopted by the Secretary of Labor, not in conflict therewith.

Section 2051 of the California Unemployment Insurance Code whereby the State accepted the provisions of said act, as provided in Section 49c of said act, provides as follows:

> "The State of California accepts the provisions of the Wagner-Peyser Act, approved June 6, 1933, passed by the Congress of the United States, and entitled
>
> 'An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes,' in conformity with Section 4 thereof, and will observe and comply with the requirements of said act.
>
> "The department is the agency of this State for the purposes of that act."

Among the provisions of the act, with reference to labor disputes, we find the following in Section 49j, Subdivision (b):

> "In carrying out the provisions of sections 49-49c, 49d, 49g, 49h, 49j, and 49k of this title and section 338 of Title 39, the Secretary is ***authorized and directed*** to provide for the giving of notice of strikes or lockouts to applicants ***before*** they are referred to employment." (Emphasis added.)

That is all that is said about giving notice and referrals. The act does not say the applicant ***shall not be*** referred. Section 49k of said act provides as follows:

> "The Secretary of Labor is authorized to make such rules and regulations as may be necessary to carry out the provisions of sections 49-49c, 49g, 49h, 49j, and 49k of this title and section 338 of Title 39."

The refusal of the Department of Employment to refer job applicants to petitioner's orchard is based upon the Secretary of Labor's regulation No. 602.2(b) which provides as follows:

> "***Referrals in labor dispute situations.*** No person shall be referred to a position the filling of which will aid directly or indirectly in filling a job which (1) is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or (2) the filling of which is an issue in a labor dispute. With respect to positions not covered by subparagraph (1) or (2) of this paragraph, any individual may be referred to a place of employment in which a labor dispute exists, provided he is given written notice of such dispute prior to or at the time of his referral."

APPENDIX B—EXHIBIT 17—Continued

It is this regulation, claimed to be in excess of the secretary's authority and in direct conflict with the provisions of the act itself, that is challenged in this proceeding.

Respondents maintain that the State in accepting the provisions of the act has bound itself to follow all provisions thereof including regulations as provided for in said Section 49k above referred to and that Regulation 602.2(b) follows as a valid and reasonable exercise of the authority delegated.

The case of *Ottinger* v. *United States*, 106 Fed. Supp. 198, is cited by respondents in support of their contention. This case, a levee construction case, involved the authority and rule-making regulations of the War Manpower Commission, pursuant to an executive order of the President formulating plans for the effective mobilization of the nation's manpower in the prosecution of the war. Pursuant to another such order, the Employment Service was transferred from the Labor Department to the Manpower Commission setting forth certain policy regulations concerning labor referrals in the best interests of the war prosecution. This authority appears to be of no material assistance here as it factually involves an entirely different background.

The instant proceeding originated in this court and thereafter upon the return day, a petition was filed by respondents in the U.S. District Court, Northern Division of California, requesting that the matter be transferred to that court, which stayed further proceedings in this court. Upon motion by petitioner herein to remand the case back to the state court, the district court in granting the motion stated in substance that the issues involved arise primarily out of state legislation which should properly be interpreted by the state courts, whereupon the matter was returned to this court for disposition, it being stipulated that the issues involved were questions of law only.

The law throughout the land, and we need cite no authority in support thereof, is well established that the *legislative* body, and that includes the Congress, may not delegate authority to a board or officials to adopt regulations which enlarge, extend, or modify the statute creating the right involved.

While reasonable discretion is necessary to carry into effect the expressed purpose of the act or statute, it is not an arbitrary discretion nor does it confer upon the board or officer a right to determine what the law shall be in a particular case.

The power to adopt rules and regulations is *not* a grant of legislative power and an officer under the guise of a regulation may not vary the terms or conditions of a legislative enactment or enlarge or impair its scope.

And in this connection it is interesting to note that in the U.S. Attorney General's opinion, referred to in respondents' brief herein, mention is made of a letter received by the Secretary of Labor's solicitor from the Council for the House Committee on Agriculture wherein it is stated,

> "The committee's counsel makes the following points: (1) Nowhere in the act, either by express language or by necessary implication, is there any delegation of power to the Secretary of Labor to promulgate referral standards, and no intention on the part of Congress to delegate such power is to be found in the legislative history; (2) the legislative materials indicate that the sole intention of Congress was to establish the public employment service as 'a service agency' to assist and encourage the development and operation of free public employment offices without any authority to exercise substantive controls over conditions and terms of employment; (3) the act cannot reasonably be construed as conferring upon the secretary the power to promulgate substantive regulations regarding conditions and terms of employment with respect to agricultural labor in the face of consistent exemptions of such labor from regulatory statutes, such as the Fair Labor Standards Act of 1938, c. 676, 52 Stat. 1060, 1067, 29 U.S.C. Secs. 201, 213, and the Walsh-Healey Act, c. 881, 49 Stat. 2036, 2039, 41 U.S.C. Secs. 35, 43; (4) Section 11(b) of the act, 29 U.S.C. Sec. 49j(b), authorizing and directing the secretary in carrying out the provisions of the act to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment, is perhaps the most compelling indication of congressional intent—the fact that Congress felt it necessary to include this specific referral standard shows that it intended no others."

Without further discussion or comment, the court is satisfied that the regulation here in issue is one that is in excess of the authority granted by said Section 49k, and also being contrary to the enacting statute, is invalid. The attempted modification is for the Congress to decide and not an administrative official.

Let the preliminary writ of mandate issue as prayed.

Dated: August 15, 1960.

WARREN STEEL
Judge of the Superior Court

APPENDIX B—EXHIBIT 18

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA IN BANK

DiGiorgio Fruit Corporation (a Corporation)
Petitioner and Respondent,
vs.
Department of Employment of the State of California, I. H. Perluss, G. Norman Long, Jr., and Sachett Booth,
Respondents and Appellants.
Sac. 7279

Thomas C. Bowers,
Petitioner and Respondent,
vs.
Department of Employment of the State of California, I. H. Perluss, and Floyd Greer,
Respondents and Appellants;
Agricultural Workers Organizing Committee, AFL-CIO (a Labor Union), and Arthur J. Goldberg, Secretary of Labor, United States Department of Labor,
Interveners and Appellants.
Sac. 7283

Filed
May 29, 1961
William I. Sullivan, Clerk
By ______________________
S. F. Deputy

Petitioners, DiGiorgio Fruit Corporation and Thomas C. Bowers, brought separate actions for writs of mandate to compel respondents, the Department of Employment of the State of California and its director and employees, to refer agricultural workers to petitioners' fruit ranches during the harvest season in 1960. A strike called by the Agricultural Workers Organizing Committee, AFL-CIO, was in progress at each ranch. Pursuant to a regulation of the United States Secretary of Labor[1] issued under the Wagner-Peyser Act (48 Stat.

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[1] "*Referrals in labor dispute situations.* No person shall be referred to a position the filling of which will aid directly or indirectly in filling a job which (1) is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or (2) the filling of which is an issue in a labor dispute. With respect to positions not covered by subparagraph (1) or (2) of this paragraph, any individual may be referred to a place of employment in which a labor dispute exists, provided he is given written notice of such dispute prior to or at the time of his referral." (20 C.F.R. § 602.2(b) (Supp. 1960). See also, 20 C.F.R. § 604.1(i) (Supp. 1960).)

113 (1933) as amended, 29 U.S.C.A. §§ 49-49n (1956)) the department refused to refer workers to petitioners for employment. The Wagner-Peyser Act, which has been accepted by this State (Unemployment Insurance Code, §§ 2051-2052), governs the operation of the state employment service. In the Bowers case the trial court permitted the organizing committee to intervene on the side of the department. It refused, however, to permit the Secretary of Labor to intervene in support of his regulation. In each case the trial court concluded that the regulation was invalid and entered judgment directing that a writ of mandate issue. The department and the individual respondents have appealed from the judgment in each case, and the organizing committee has appealed from the judgment in the Bowers case. The Secretary of Labor has appealed from the order denying his petition for leave to intervene in the Bowers case.

The Secretary of Labor contends that his interest in the validity of his regulation is sufficient to support intervention (see *County of San Bernardino* v. *Harsh California Corp.*, 52 Cal. 2d 341, 345-346), and that therefore the trial court erred in denying leave to intervene. Bowers contends that the secretary's intervention would have delayed the action and that the need for a prompt decision in the trial court during the harvest season justified denial of the secretary's petition. The validity of the regulation presents only a question of law on which the secretary has been fully heard on these appeals. Since we have now determined that question and since any prejudice the secretary may have suffered from not being allowed to be heard in the trial court cannot be undone, no purpose would be served by determining whether the trial court erred in denying him leave to intervene. Accordingly, his appeal will be dismissed.

DiGiorgio has moved to dismiss the appeal taken from the judgment in its favor on the ground that it is moot. It points out that the harvest season is now over and contends that the writ of mandate is therefore no longer operative. Although there has been no motion in the Bowers case to dismiss the appeals it would follow that they should be dismissed if DiGiorgio's motion to dismiss is well-taken.

We have concluded that the appeals from the judgments should not be dismissed as moot. Even if the writs of mandate were operative only during the harvest season of 1960, the appeals present a question of continuing importance in the administration of the employment service. The very shortness of harvest seasons would preclude appellate review in mandate proceedings if the end of each season were treated as rendering the appeals moot. These are not cases in which the parties are no longer interested in the legal issue involved (see *Prune & A. G. Assn.* v. *Orchard Co.*, 195 Cal. 264, 265-266), and DiGiorgio's suggestion that the issue could be determined in a declaratory relief action demonstrates that there is a continuing controversy ripe for decision. No purpose but delay would be served by dismissing the appeals, and the public interest both in the operation of the employment service and in the orderly administration of justice compels a determination now of the validity of the secretary's regulation. (See In re Newbern, 55 A.C. 501, 506; *Almassy* v. *L.A. County Civil Service Com.*, 34 Cal. 2d 387, 390; *Kirstowsky* v. *Superior Court*, 143 Cal. App. 2d 745, 749; *Terry* v. *Civil Service Commission*, 108 Cal. App. 2d 861, 872; *Rattray* v. *Scudder*, 67 Cal. App. 2d 123, 127-128.)

The Wagner-Peyser Act, enacted in 1933 (48 Stat. 113), created the United States Employment Service to promote the establishment and maintenance of a national system of public employment offices. It is the duty of the Employment Service to assist in establishing and maintaining systems of public employment offices in the several states and to assist in co-ordinating such offices throughout the United States. The act provides for grants of federal funds to states that wish to receive its benefits by operating their own employment offices in co-operation with the United States Employment Service. States wishing to receive such funds must submit plans of operation to the Secretary of Labor, and he is authorized to certify to the Secretary of the Treasury for payment of necessary operating funds to each state that has an approved unemployment compensation law in compliance with the act. Section 9 provides that it shall be the duty of the Secretary of Labor to ascertain whether the system of public employment offices maintained in each state is conducted in accordance with the rules and regulations and the standards of efficiency prescribed by him under the act. Section 11(a) provides for the establishment of a "Federal Advisory Council composed of men and women representing employers and employees in equal numbers and the public for the purpose of formulating policies and discussing problems relating to employment and insuring impartiality, neutrality, and freedom from political influence in the solution of such problems." (29 U.S.C.A. § 49j(a) (1956).) It also provides for the establishment of similar state advisory councils. Section 11(b) provides that "In carrying out the provisions of" the act "the secretary is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment" (29 U.S.C.A. § 49j(b) (1956)), and Section 12 provides that "The Secretary of Labor is authorized to make such rules and regulations as may be necessary to carry out the provisions of" the act. (29 U.S.C.A. § 49k (1956).) Pursuant to this authority the secretary adopted the regulation challenged in these cases providing that "No person shall be referred to a position the filling of which will aid directly or indirectly in filling a job which (1) is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or (2) the filling of which is an issue in a labor dispute." (20 C.F.R. § 602.2(b) (Supp. 1960).)

The operation of an efficient employment service obviously requires the formulation of reasonable referral standards so that prospective employees may be referred to jobs for which they are suited and which are suitable to them. Under Section 12 it is for the secretary to provide such standards. In doing so, he does not regulate the conditions of employment or determine the qualifications of employees, but he necessarily determines the conditions on which employers or employees may receive the benefits of the publicly supported employment service. Thus, although he may not prevent an employer from hiring an employee unsuited to a job, he may provide that no referral shall be made in such a case. Similarly, although he may not regulate working conditions or wages, he may provide that no referrals shall be made to employers who maintain unsafe or unsanitary places of employment or pay substandard wages. (See 41 Ops. U.S. Atty. Gen. No. 74 (1959).) Section 12 likewise authorizes the secretary to determine how the policy of neutrality stated in Section 11(a) can best be served. He might determine to withhold the services of the public employment offices in cases of strikes or lockouts and leave it to employers to secure employees through other channels, he might determine to continue referrals and leave it to the individual employees to decide whether to accept or reject jobs where a labor dispute existed, or he might adopt some intermediate position. (See *Virginia Electric Co.* v. *Board*, 319 U.S. 533, 539-540; *Fahey* v. *Mallonee*, 332 U.S. 245, 249-250; *Carlson* v. *Landon*, 342 U.S. 524, 542-543; *American P. & L. Co.* v. *Securities and E. Com.*, 3219 U.S. 90, 104-105, 112; *American Trucking Assns.* v. *U.S.*, 344 U.S. 298, 310-311; 1 Davis, Administrative Law Treatise, § 5.03, p. 302.)

Petitioners contend, however, that by authorizing and directing the secretary "to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment" (§ 11(b)) Congress defined the full extent of the secretary's rulemaking power with respect to referrals in the event of labor disputes. We cannot agree with this contention. Section 11(b) does not provide that the secretary must authorize referrals when there are strikes or lockouts. It provides only that notice must be given before referrals are made, and only to this extent does it restrict the rulemaking power granted by Section 12. (See *American Trucking Assns.* v. *U.S.*, 344 U.S. 298, 316; *Nat. Broadcasting Co.* v. *U.S.*, 319 U.S. 190, 222-223; *Springer* v. *Philippine Islands*, 277 U.S. 189, 206-207; *Neuberger* v. *Commissioner*, 311 U.S. 83, 88.) The secretary and his predecessors have consistently interpreted the act as authorizing regulations with respect to referrals in the event of labor disputes in addition to the minimum notice requirement of Section 11(b). The challenged regulation or regulations similar to it have been in effect since 1939 (see 4 Fed. Reg. 2464 (1939)); [8] even as early as 1934 a regulation was adopted substantially restricting the referral services that would be provided by employment offices in the event of strikes or lockouts. (United States Department of Labor, United States Employment Service, Bulletin Number 2, Procedure for Giving Effect to the Provision of the Wagner-Peyser Act regarding Strikes or Lockouts, September 15, 1934; [9] see also *Sanders* v. *United States*, 60 F. Supp. 483, 491.) Consistent administrative construction of a statute over many years, particularly when it originated with those charged with putting the statutory machinery into effect, is entitled to great weight and will not be overturned unless clearly erroneous. (*F.T.C.* v. *Mandel Brothers*, 359 U.S. 385, 391; *U.S.* v. *Amer. Trucking Ass'ns.*, 310 U.S. 534, 549; *United States* v. *Leslie Salt Co.*, 350 U.S. 383, 396; *Great Northern Ry. Co.* v. *United States*, 315 U.S. 262, 275-276; *Norwegian Nitrogen Co.* v. *U.S.*, 288 U.S. 294, 315; *Mazer* v. *Stein*, 347 U.S. 201, 213; see 1 Davis, Administrative Law Treatise, § 5.06, p. 324.) We cannot say that the secretary or his predecessors erred in determining the scope of their rulemaking power under the act or that the regulation challenged by petitioners is invalid. (See *Ottinger* v. *United States*, 123 Ct. Cl. 23, 45-46, 106 F. Supp. 198, 202-203; 41 Ops. U.S. Atty. Gen. No. 74 (1959).)

The appeal from the order denying leave to intervene is dismissed. The motion to dismiss the appeal from the judgment in the *DiGiorgio* case is denied. The judgments are reversed. Each party shall bear its own costs on the appeal from the order denying leave to intervene. Appellants shall recover their costs on the appeals from the judgments.

TRAYNOR, J.

WE CONCUR:
GIBSON, C. J.
PETERS, J.
WHITE, J.
DOOLING, J.

DIGIORGIO FRUIT CO. v. DEPT. OF EMPLOYMENT—SAC. 7279

BOWERS v. DEPARTMENT OF EMPLOYMENT—SAC. 7283

DISSENTING OPINION

I dissent. I would dismiss the appeals, as the issues which were before the trial court are now moot.

McCOMB, J.

I CONCUR
SCHAUER, J.

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[8] "Sec. 21.12. *Referrals in Labor Disputes.* Unless otherwise provided by state law, the state service shall require that each employment office under its supervision refrain from referring any person to any position at any place of employment where there exists a labor dispute. For the purpose of this rule, the term 'labor dispute' shall include any controversy concerning terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether or not the disputants stand in the proximate relation of employer and employee."

[9] This regulation provided in part:

> "An opening involving a strike or lockout may be brought to the attention of any applicant who calls voluntarily in person at an office of a state employment service or of the National Re-employment Service.
>
> "*Applicants previously registered at an employment office shall not be requested by mail, telephone, telegraph, or other means of notification to call at the employment office for an interview concerning a position involving a strike or lockout.*
>
> "An applicant shall not, under any circumstances, be referred to a position involving a strike or lockout until he has been notified verbally and in writing of the existence and nature of the dispute. The applicant shall be required to sign acknowledgment of the written notification before he is referred." (Italics added.)

APPENDIX B—EXHIBIT 19

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, February 3, 1961

HON. JAMES A. COBEY
Senate Chamber

FARM PLACEMENT ACTIVITIES UNDER THE WAGNER-PEYSER ACT

No. 6499

DEAR SENATOR COBEY:

QUESTION

You ask whether it is lawful to apply the provisions of the Wagner-Peyser Act, and the regulations implementing it, to the placement of workers in agriculture by the California Department of Employment.

OPINION

In our opinion, the answer is "yes."

ANALYSIS

The Wagner-Peyser Act (U.S.C., Title 29, Secs. 49 *et seq*) establishes a uniform public employment service. In order to obtain the benefits of various federal appropriations made for the purposes of operating the system, a state must, through its legislature, accept the provisions and comply with them, and must continuously co-operate with and conform to the directions of the Secretary of Labor in the conduct of the system through a state agency designated as agent of the Secretary of Labor (U.S.C.A., Title 29, Secs. 49c, 49d, 49g, 49h).

The Wagner-Peyser Act contains nothing which exempts from its terms employment service activities involving agriculture or agricultural labor—provision for which the Federal Congress is always careful to make in statutes where exclusion from or limitations upon, the scope and coverage are intended (see, for example, the National Labor Relations Act as amended by the Labor Management Relations (Taft-Hartley) Act of 1947 and the Labor-Management Reporting and Disclosure Act of 1959 (U.S.C.A., Title 29, Sec. 152); the Federal Unemployment Tax Act (U.S.C.A., Title 26, Sec. 3306); and the Federal Social Security Act (U.S.C.A., Title 26, Sec. 3121)).

The Wagner-Peyser Act makes express provision authorizing the Secretary of Labor to make rules and regulations necessary to carry out its provisions (U.S.C.A., Title 29, Sec. 49k). Pursuant thereto the Secretary has promulgated a detailed series of implementing regulations (see C.F.R., Title 20, Part 602). Nothing therein contained purports to exempt or limit the application of the law or the regulatory provisions in respect to agriculture or agricultural labor. On the contrary, specific provision is made requiring each state administrative agency and local employment office to maintain effective placement services for agricultural workers (Sec. 602.8), as well as for the interstate recruitment of domestic agricultural workers (Sec. 602.9) and the certification and use of foreign agricultural workers (Sec. 602.10).

The California Legislature has accepted the provisions of the Wagner-Peyser Act and has designated the Department of Employment as the state agency to operate the program in this State. In this connection, Sections 2051 and 2052 of the Unemployment Insurance Code provide:

> "2051. The State of California accepts the provisions of the Wagner-Peyser Act, approved June 6, 1933, passed

APPENDIX B—EXHIBIT 19—Continued

by the Congress of the United States, and entitled 'An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes,' in conformity with Section 4 thereof, and will observe and comply with the requirements of that act.

"The department is the agency of this State for the purposes of that act.

"2052. The director may co-operate with any authority of the United States having powers and duties under the Wagner-Peyser Act, and may do and perform all things necessary to secure to this State the benefits of that act in the promotion and maintenance of a system of public employment offices."

Special provision is made in the California law requiring the Department of Employment to promote the placement and clearance of agricultural labor through a farm placement service (U.I.C., Sec. 2054).

We conclude, therefore, that insofar as the placement activities of the Department of Employment are concerned, the application of the provisions of the Wagner-Peyser Act and the authorized regulations implementing it, to placement of agricultural workers, is valid.

Very truly yours,
Ralph N. Kleps, Legislative Counsel
By Ernest H. Kunzi, Deputy Legislative Counsel

APPENDIX B—EXHIBIT 20

State of California
Office of Legislative Counsel
Sacramento, California, June 28, 1960

Honorable James A. Cobey
Post Office Box 1229
Merced, California

MEXICAN NATIONALS IN AGRICULTURAL LABOR

#4122

Dear Senator Cobey:

QUESTION

With respect to the referral of Mexican nationals for employment in agriculture by the Department of Employment, in situations involving labor disputes of the organizational type in which "stranger picketing" and related forms of economic pressures are being exerted, you ask whether the placement activities should be governed by the labor dispute standards promulgated by the Secretary of Labor under the Wagner-Peyser Act or those which appear in Article 22 of the Migrant Labor Agreement of 1951.

OPINION

It is our opinion that the referral of Mexican nationals in the labor dispute situation is properly governed by the provisions of Article 22 of the Agreement rather than the Wagner-Peyser regulations, but that the various provisions of the Agreement and the statutes and regulations complementing and implementing it, which additionally restrict the utilization of Mexican nationals on the basis of supply of available domestic workers, the effect of such utilization upon the wages and working conditions of domestic workers, and like factors, could be interpreted to have a restrictive effect virtually equivalent to that of the Wagner-Peyser regulatory standard. Interpretation of the scope and effect of the various restrictive provisions of the Agreement is, in the first instance, an administrative responsibility of the Secretary of Labor.

ANALYSIS

Striking, picketing, and other forms of concerted activity undertaken by labor organizations to organize farmworkers and to obtain from agricultural employers the concession of having the terms and conditions of employment of the workers fixed through collective bargaining, frequently do not involve participation by the employees of the particular farmer against whom the concerted activity is directed, or will involve the participation of only a limited number or particular segment of the employees. That is, there may be no employer-employee relationship between the farmer and the individuals in dispute with him; or, where such a relationship can be said to exist, the employees involved may be engaged in some phase of the farming operations which is clearly distinct and apart from other phases. The situation most commonly arises where the labor union's concerted activities are "organizational" in character and consist of "stranger picketing" and related forms of economic pressure.

When the Department of Employment's Farm Placement Section receives a request for workers from an agricultural employer involved in one of these disputes, it may be confronted with the problem of determining the scope of its authority to dispatch workers under two separate standards promulgated under the governing federal authority. The two standards are substantially different, and the problem here presented is one of determining which one is properly applicable in the situation where Mexican nationals are being utilized in the area pursuant to federal law.

The first of these standards is one promulgated by the Secretary of Labor under the Wagner-Peyser Act (U.S.C.A., Title 29, Secs. 49 *et seq.*), pursuant to which the national system of public employment offices is conducted through state agencies (such as the California Department of Employment). It appears as Subdivision (b) of Section 602.2 of Title 20 of the Code of Federal Regulations, and reads as follows:

> "(b) *Referrals in labor dispute situations.* No person shall be referred to a position the filling of which will aid directly or indirectly in filling a job which (1) is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or (2) the filling of which is an issue in a labor dispute. With respect to positions not covered by subparagraph (1) or (2) of this paragraph, any individual may be referred to a place of employment in which a labor dispute exists, provided he is given written notice of such dispute prior to or at the time of his referral."

The second standard which may have to be considered in connection with the placement activities of the Department of Employment is one set out in Article 22 of the Migrant Labor Agreement of 1951 (Bracero Treaty), between the United States and the Republic of Mexico, pursuant to which Mexican nationals are recruited for agricultural employment in the United States. Article 22 provides, in pertinent part, as follows:

> "No Mexican worker shall be used to fill any job which the Secretary of Labor finds is vacant because the occupant is out on strike or locked out in the course of a labor dispute.
>
> "In the event of a strike or lockout on the farm or in the establishment in which the Mexican workers are employed which seriously affects the operations in which they are engaged, the Secretary of Labor shall make special efforts to transfer such workers to other agricultural employment and give them preference over all other Mexican workers."

APPENDIX B—EXHIBIT 20—Continued

Considering first the similarity between these two regulatory standards, we note that both prevent the placement of a worker in a job which is vacant because the former occupant is on strike or is locked out in the course of a labor dispute—though the Wagner-Peyser provision contains more technical detail in this respect, in prohibiting the referral of a worker not only where a position so vacant would be directly filled, but where the filling of a position would *indirectly* result in the filling of a position vacant for the reasons specified. It is clearly contemplated under each of the regulatory standards that the existence of a labor dispute involving an agricultural employer will not prevent the referral of a worker to the farm so long as that referral does not violate the restrictions concerning the filling of a position vacant because of a labor dispute. In fact, the Wagner-Peyser provision specifies, in effect, that where a permissible referral is made in the labor-dispute situation, the worker need only be given written notice of the existence of the labor dispute. It is conceivable, therefore, that where, for example, a packing shed is operated in conjunction with the growing of produce, that a labor dispute limited to one phase or stage of the overall operation will not necessarily preclude the referral of workers for employment in others. Various other factual situations can be conceived where such referrals would be permissible under this restrictive language.

It is interesting to note, too, that the standard of the Migrant Labor Agreement of 1951, insofar as it directs that Mexican nationals employed on a farm or establishment be transferred where a labor dispute exists, specifies that such action need be taken only if the labor dispute "seriously affects the operations in which they are engaged."

The differences in the two regulatory standards arise from the fact that while Article 22 of the Migrant Labor Agreement of 1951 contains no further specific and direct restrictions on the worker referral procedures, the Wagner-Peyser provision contains a restriction in addition to that regarding the direct or indirect filling of a position vacant because of a labor dispute. The latter regulatory standard also prohibits referrals where the filling of a position "is an issue in a labor dispute." We are aware of no judicial or administrative aids to interpretation of this language, though it is obvious that whether or not, in some instance, the filling of a particular position is actually an issue in a labor dispute is a question of fact to be resolved by determination of the governmental officer or agency charged with making such determinations. The power and responsibility of making of such determinations is placed with the Department of Employment by the terms of the Wagner-Peyser Act and implementing regulations. Determinations under the Migrant Labor Agreement provision set out above are, by the express terms of the provision itself, made by the Secretary of Labor.

As to the matter of which of the two standards should govern in the situation where the employer's order for workers would ordinarily result in the dispatch, by the Department of Employment's Farm Placement Section, of Mexican nationals, we believe that under the usual rules of statutory construction the provisions of Article 22 of the Migrant Labor Agreement of 1951 should govern. It is a special provision dealing specifically with the referral of Mexican nationals and is contained in a treaty between the United States and the Republic of Mexico, in contrast to the Wagner-Peyser regulatory standard which is an implementing regulation only, and is general in its scope and effect upon placement activities of the Public Employment Service. Generally, when two provisions of law deal with the same subject, and one is general in scope while the other is specific, the specific will govern with respect to the particular situation it controls (*Karrell* v. *United States*, 181 Fed. 2d 981; *Ruth* v. *Eagle-Picher Co.*, 225 Fed. 2d 572).

The fact that the placement, by the Department of Employment, of Mexican nationals is governed by the less restrictive standards of Article 22 of the Migrant Labor Agreement of 1951, does not necessarily mean that such workers may be dispatched where the more restrictive provisions of the Wagner-Peyser regulatory standard operate to bar the placement of workers (i.e. domestic workers). This is so because, generally, Mexican nationals cannot be utilized where domestic workers are available to do the work or where the utilization of Mexican nationals would adversely affect the terms and conditions of employment of domestic workers. Thus, if the department has domestic workers awaiting placement but is prevented from placing them by the Wagner-Peyser regulatory standard, there is at least a substantial basis upon which the Secretary of Labor could conclude that these prerequisites to the utilization of Mexican nationals are not present.

In addition to the provisions of the Migrant Labor Agreement of 1951, certain powers and responsibilities in connection with the utilization of Mexican nationals for employment in agriculture appear in Public Law 78 of the 82d Congress (U.S.C.A., Title 7, Secs. 1461 to 1468, inclusive, as amended). It is there provided that the Secretary of Labor may enter into agreements with state agencies for the operation of the program (U.S.C.A., Title 7, Sec. 1466). Such an agreement has been entered into with the California Department of Employment. As to the circumstances under which Mexican nationals may be made available in a locality, the following provision is made:

> "1463. Certification of need for workers. No workers [Mexican nationals] recruited under this subchapter shall be available for employment in any area unless the Secretary of Labor has determined and certified that (1) sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed, (2) the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed, and (3) reasonable efforts have been made to attract domestic workers for such employment at wages and standard hours of work comparable to those offered to foreign workers."

Article 9 of the Migrant Labor Agreement of 1951 provides, in pertinent part, as follows:

> "Mexican workers shall not be employed in the United States in any jobs for which domestic workers can be reasonably obtained or where the employment of Mexican workers would adversely affect the wages and working conditions of domestic agricultural workers in the United States."

Where the more restrictive provisions of the Wagner-Peyser regulatory standard operate to bar the referral of domestic workers in the labor dispute situation, it seems clear that these provisions could reasonably be construed to bar the placement of Mexican nationals even though otherwise permissible under Article 22 of the Migrant Labor Agreement of 1951, on various grounds including the fact that domestic workers are available, and that the employment of the Mexican nationals under the circumstances will adversely affect the wages and working conditions of the domestic workers.

The state agency (Department of Employment) is required to compile the information and make various certifications concerning the available domestic labor force and, where appropriate, place with the Secretary of Labor, not more than 60 days and not less than 30 days, prior to the date of need, a request for foreign workers for the area involved (U.S.C.A., Title 7, Sec. 1463; C.F.R., Title 20, Part 602.10). In addition to these certifications concerning need for Mexican nationals for agricultural employment on an area-wide basis, the Migrant Labor Agreement of 1951 contemplates that authorizations must be obtained on an individual-employer basis subject to compliance with various requirements before the services of Mexican nationals can be utilized (see Articles 1, 10, 11, 12, of the Agreement). These authorizations may be issued upon the filing of a "job order" by the employer (see Article 15, of the Agreement). As to the individual-employer authorizations, Article 7 of the Agreement specifies that they shall be revoked or denied issuance under various circumstances including the following:

> "(4) Where the secretary determines that the conditions described in Article 22 [the labor dispute placement standard—see above] of this Agreement exist;
>
> "(5) Where the employer is not giving preference to domestic workers either when hiring workers or when reducing his labor force as required by Article 9 of this Agreement;
>
> "(6) Where the employment or continued employment of Mexican workers would adversely affect the wages, working conditions or employment opportunities of domestic agricultural workers similarly employed;"

Here again there would appear to be a sufficient basis for an interpretation that these provisions bar the referral of Mexican nationals with an employer in the domestic worker-labor dispute situation, even though otherwise permissible under the less restrictive standard of Article 22 of the Agreement. It seems clear that the Agreement and the statutes and regulations complementing and implementing it constitute a single and cohesive body of law, and the same general concepts concerning when Mexican nationals are to be utilized, in relation to the domestic worker situation, are interwoven throughout the entire scheme.

A body of law should generally be construed as a whole to effectuate and harmonize each part (*Mastro Plastics Corporation* v. *National Labor Relations Board*, 350 U.S. 270, 100 L. Ed. 309; *Federal Power Commission* v. *Panhandle Eastern Pipeline Company*, 337 U.S. 498, 93 L. Ed. 1499). Under this principle the referral standard of Article 22 of the Migrant Labor Agreement of 1951, though less restrictive than the Wagner-Peyser standard, must, nevertheless, be considered in conjunction with the various other provisions of the Agreement imposing additional restrictions on the utilization of Mexican nationals.

Whether the provisions so delineating the circumstances under which Mexican nationals may or may not be used are to be construed to bar the referral of Mexican nationals where the Wagner-Peyser referral standard is operative to bar the referral of domestic workers, is, of course, a matter to be determined in the first instance by the Secretary of Labor. He is not only charged with the power and duty or determining and certifying when the utilization of Mexican nationals would be precluded because of availability of domestic workers or a resultant adverse effect upon the wages and working conditions of domestic workers (P.L. 78, Sec. 503—U.S.C.A., Title 7, Sec. 1463), but is charged with the power and responsibility of promulgating the rules and regulations to be complied with by the state agencies in the conduct of the public employment offices (Wagner-Peyser Act—U.S.C.A., Title 29, Sec. 49h). An administrative interpretation or implementation of a statute, if reasonable and not arbitrary or capricious and if reasonably related to and consonant with the intent and purpose of the statute, will, of course, be upheld as valid (see discussion and cases collected at 73 C.J.S. 331 *et seq.*).

We have undertaken a comprehensive review of all of the federal statutory law which might have a bearing upon the matters in question, and have examined all pertinent regulations and interpretative materials, including the history of each, and have found nothing on the basis of which we could state with any degree of certainty that an interpretation by the Secretary of Labor, along the lines indicated above, would be invalid as arbitrary, capricious, or unreasonable.

We conclude, therefore, that as between the provisions of Article 22 of the Migrant Labor Agreement of 1951, and the regulations promulgated under the Wagner-Peyser Act (C.F.R., Title 20, Sec. 602.2), the referral of Mexican nationals in the labor dispute situation is governed by Article 22 rather than the latter regulation, but that the provisions of the Agreement and the statutes and regulations complementing and implementing it, as they additionally restrict the utilization of Mexican nationals on the basis of the availability of domestic workers, the effects upon wages and working conditions of domestic workers by such utilization, and similar factors, may nevertheless be construed to further limit the authority to make the referrals. The interpretation of the scope and effect of the various limiting provisions is, in the first instance, a matter of exercise of the administrative discretion vested in the Secretary of Labor.

Very truly yours,
RALPH N. KLEPS, Legislative Counsel
By ERNEST H. KUNZI, Deputy Legislative Counsel

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APPENDIX C

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APPENDIX C

REVISIONS IN FARM LABOR EMPLOYMENT DATA SUBMITTED BY THE CALIFORNIA DEPARTMENT OF EMPLOYMENT

STATE OF CALIFORNIA
DEPARTMENT OF EMPLOYMENT
SACRAMENTO 14, CALIFORNIA, January 25, 1963

HONORABLE JAMES A. COBEY, *Chairman*
Senate Fact-Finding Committee on Labor and Welfare
State Capitol, Sacramento 14, California

DEAR SENATOR COBEY: At the time Part I of your report on "CALIFORNIA FARM LABOR PROBLEMS" was published, the Director informed you that recently received data obtained from the 1960 Census indicated a need for the downward revision of some of the farm labor employment figures that had been submitted to your Committee in the course of its study of California farm labor problems. Under his instructions, I am submitting to you the revisions we have made.

The revisions are given in summary form for the State as a whole in the attached Report 881M No. 1. Additionally, revised tabulations are attached for Figures 45, 46, 47, 48, 54, and 55 as carried in Part I of your report. We did not re-estimate the data given in Figures 49, 50, 52, 53, 72, 88, 89, and 90 of Part I of your report, because we lacked detailed information of the kind needed to parallel the changes that could be made in the other figures. This latter group of figures distributed the employed labor force in terms of its origin and migratory status, and such personal characteristics as sex and age.

The submittal of these revisions obliges us, I believe, to advise your Committee whether the changes affect the validity of the description of California agricultural labor you published on the basis of the unrevised figures. Many of the figures cited in the text of the report, of course, differ somewhat from the revised figures. These small differences, however, do not impair your description of California agricultural labor problems in its broad outline.

Respectfully,

GEORGE S. ROCHE,
Chief of Research and Statistics

REVISION OF CALIFORNIA AGRICULTURAL EMPLOYMENT ESTIMATES

January 1963

The attached estimates of agricultural employment in California replace all figures previously issued by the Department of Employment for total employment, for farmers and unpaid family members, and for hired domestic workers (figures on foreign contract workers are unchanged). These revisions were completed in January 1963 following extensive field review of new benchmarks obtained from the 1959 Census of Agriculture, the 1960 Census of Population, and reports of employment made by agricultural employers covered by the disability insurance program.

These three independent sources of information about the number of workers in agriculture were put to use as they became available during the first half of 1962. The levels of employment in the three sources were generally consistent with each other, but differed from the estimates published by the Department of Employment. Similar differences had also been shown in the 1954 Census of Agriculture, but the 1954 Census figures on farm employment related to the week of October 1, a time of the year when agricultural employment is seasonally high but decreasing rapidly, and consequently provided an uncertain benchmark. Revisions for the year 1962 were made on a county-by-county basis for 43 counties and summarized to develop the figures in the attached table, after adding an estimate for 15 additional counties which have comparatively little agricultural employment.

The principal changes that occur in the 1963 revisions should be noted. The largest of these, accounting for more than 50 percent of all changes, relates to the category "farmers and unpaid family workers." Previous estimates rested on Census of Agriculture totals for "farm operators," although the Census counted every farm as having an operator regardless of its size or the amount of time spent on the farm by the operator. The revised series is based on the Census of Population concept of a farmer as one who spends the majority of his labor operating his own farm and, thus, excludes those for whom farm operating is only a supplemental occupation. The magnitude of this change can be indicated by the fact that the 1959 Census of Agriculture reported 99,232 "farm operators," but only 66,924 operators of commercial farms. Of the latter, 11,551 worked off the farm more than 200 days in 1959. In addition, the Census reported 34,662 unpaid members of operators' families working 15 or more hours during the survey week. The revised estimates for 1962 average 95,500 farmers and unpaid family members, compared with 139,600 in the unrevised series.

The second major revision resulted in a reduction of hired domestic workers to an average of 196,800 in 1962, compared with 238,100 in the original series. Most of the cut reflects a re-evaluation of employment estimates in the "All Other Agriculture" category; that is, activities in which seasonal labor use was generally low. Census and Department of Employment data on pertinent factors such as acreage, livestock, labor requirements, and employment were compared, and other sources of information such as the Agricultural Commissioner and the Agricultural Extension Service were called on in the course of preparing the revisions of the "All Other Agriculture" category. In addition, some apparent duplications between the estimated number of workers engaged in major seasonal activities and in "All Other Agriculture" were identified and eliminated.

In preparing a comparable historical series for the years 1950-1961, the revised data for 1962 were used as a benchmark. The historical series for this period reflects trends for farmers and unpaid family members, and for hired workers developed from the 1950 and 1960 Census of Population. Since the revised figures for 1962 were used as a benchmark, 1950 and 1960 revised estimates approximate but do not agree exactly with the Census figures. The 1950-1961 revisions were also made on a county-by-county basis, and the State series given here represents the total of individual county estimates. The monthly figures for farmers and unpaid family members for 1961 were adjusted to show a pattern of seasonal variation similar to that in the 1962 revisions, but this was not done for earlier years. Anyone using this portion of the data should take this into account; the Research and Statistics Section will be glad to assist in developing methodology to reconstitute the seasonal pattern.

No revisions were made of the numbers of contract foreign workers, since these have always been developed from firm records accounting for these people.

State of California
Department of Employment

Research and Statistics
January 8, 1963

AGRICULTURAL EMPLOYMENT IN CALIFORNIA, BY TYPE OF WORKER
MID-MONTH ESTIMATES, 1950-1962

Revision of January 1963

APPENDIX C—EXHIBIT 1

Year and month		*Total*[a]	*Farmers and unpaid family workers*[a]	*Hired domestic workers*[a]			*Foreign contract workers*
				Total	*Year-round*	*Temporary*	
1950	January	329,200	129,800	191,400	108,000	83,400	8,000
	February	306,200	129,600	167,900	107,900	60,000	8,700
	March	288,200	129,200	151,000	107,700	43,300	8,000
	April	311,300	129,000	175,300	107,600	67,700	7,000
	May	349,100	128,700	213,800	107,500	106,300	6,600
	June	371,600	128,500	237,400	107,400	130,000	5,700
	July	371,700	128,100	237,600	107,200	130,400	6,000
	August	369,600	127,900	235,900	107,100	128,800	5,800
	September	417,400	127,600	282,100	107,000	175,100	7,700
	October	436,600	127,300	301,500	106,900	194,600	7,800
	November	366,900	127,000	232,000	106,700	125,300	7,900
	December	342,800	126,800	206,100	106,600	99,500	9,900
1951	January	329,500	126,500	192,200	106,500	85,700	10,800
	February	308,600	126,200	171,100	106,400	64,700	11,300
	March	279,500	126,000	142,100	106,200	35,900	11,400
	April	294,600	125,700	155,900	106,100	49,800	13,000
	May	335,100	125,400	194,700	106,000	88,700	15,000
	June	368,700	125,100	224,400	105,900	118,500	19,200
	July	350,400	124,800	206,300	105,800	100,500	19,300
	August	365,700	124,600	221,900	105,600	116,300	19,200
	September	435,200	124,300	285,700	105,500	180,200	25,200
	October	454,100	124,000	293,900	105,400	188,500	36,200
	November	377,500	123,700	229,500	105,300	124,200	24,300
	December	345,500	123,500	203,700	105,100	98,600	18,300
1952	January	334,700	123,200	195,200	105,000	90,200	16,300
	February	319,700	122,900	182,400	104,900	77,500	14,400
	March	286,400	122,700	151,000	104,800	46,200	12,700
	April	291,900	122,300	153,000	104,600	48,400	16,600
	May	338,700	122,100	195,600	104,500	91,100	21,000
	June	370,000	121,700	222,300	104,400	117,900	26,000
	July	355,100	121,600	210,300	104,300	106,000	23,200
	August	367,600	121,300	219,300	104,100	115,200	27,000
	September	437,700	121,000	282,500	104,000	178,500	34,200
	October	421,400	120,700	261,200	103,900	157,300	39,500
	November	358,800	120,400	214,500	103,800	110,700	23,900
	December	329,500	120,200	189,100	103,600	85,500	20,200
1953	January	312,900	119,900	175,700	103,500	72,200	17,300
	February	309,400	119,600	170,900	103,400	67,500	18,900
	March	285,000	119,300	147,400	103,300	44,100	18,300
	April	305,900	119,100	165,500	103,200	62,300	21,300
	May	354,100	118,800	207,500	103,000	104,500	27,800
	June	370,800	118,500	224,000	102,900	121,100	28,300
	July	378,800	118,200	234,300	102,800	131,500	26,300
	August	375,300	117,900	230,400	102,700	127,700	27,000
	September	443,700	117,700	294,100	102,500	191,600	31,900
	October	428,400	117,500	270,100	102,400	167,700	40,800
	November	375,300	117,100	231,800	102,300	129,500	26,400
	December	343,900	116,800	207,400	102,200	105,200	19,700
1954	January	321,100	116,600	190,200	102,000	88,200	14,300
	February	303,400	116,300	170,400	101,900	68,500	16,700
	March	291.900	116,100	161,500	101,800	59,700	14,300
	April	309,300	115,900	176,700	101,700	75,000	17,300
	May	360,300	115,500	217,600	101,500	116,100	27,200
	June	381,500	115,300	237,200	101,400	135,800	29,000
	July	377,300	115,000	232,500	101,300	131,200	29,800
	August	384,900	114,700	235,900	101,200	134,700	34,300
	September	424,100	114,400	262,700	101,000	161,700	47,000
	October	429,500	114,100	264,600	100,900	163,700	50,800
	November	368,500	113,800	219,600	100,800	118,800	35,100
	December	338,400	113,600	200,400	100,700	99,700	24,400

APPENDIX C—EXHIBIT 1—Continued

Year and month		*Total* [a]	*Farmers and unpaid family workers* [a]	*Hired domestic workers* [a]			*Foreign contract workers*
				Total	*Year-round*	*Temporary*	
1955	January	320,700	113,300	186,100	100,500	85,600	21,300
	February	315,600	113,000	181,400	100,400	81,000	21,200
	March	299,200	112,700	162,800	100,300	62,500	23,700
	April	312,600	112,500	172,300	100,200	72,100	27,800
	May	356,500	112,200	206,800	100,100	106,700	37,500
	June	395,000	111,900	236,400	99,900	136,500	46,700
	July	377,500	111,700	222,300	99,800	122,500	43,500
	August	387,600	111,400	230,300	99,700	130,600	45,900
	September	456,100	111,100	278,500	99,600	178,900	66,500
	October	435,300	110,800	250,200	99,400	150,800	74,300
	November	375,100	110,600	219,300	99,300	120,000	45,200
	December	327,900	110,200	188,900	99,200	89,700	28,800
1956	January	319,200	110,000	178,900	99,100	79,800	30,300
	February	311,400	109,700	171,700	98,900	72,800	30,000
	March	292,800	109,400	154,700	98,800	55,900	28,700
	April	301,000	109,200	160,200	98,700	61,500	31,600
	May	356,600	108,900	199,100	98,600	100,500	48,600
	June	401,700	108,600	230,700	98,400	132,300	62,400
	July	381,900	108,300	218,700	98,300	120,400	54,900
	August	399,100	108,100	227,200	98,200	129,000	63,800
	September	464,800	107,800	265,700	98,100	167,600	91,300
	October	439,400	107,500	236,500	97,900	138,600	95,400
	November	344,000	107,200	195,400	97,800	97,600	41,400
	December	309,300	106,900	170,200	97,700	72,500	32,200
1957	January	301,000	106,700	166,500	97,600	68,900	27,800
	February	283,800	106,400	150,000	97,400	52,600	27,400
	March	283,100	106,100	142,200	97,300	44,900	34,800
	April	302,100	105,800	158,600	97,200	61,400	37,700
	May	382,500	105,600	212,000	97,100	114,900	64,900
	June	397,600	105,400	224,000	97,000	127,000	68,200
	July	391,800	105,000	224,800	96,800	128,000	62,000
	August	391,100	104,700	222,400	96,700	125,700	64,000
	September	446,700	104,500	257,600	96,600	161,000	84,600
	October	427,600	104,200	233,200	96,500	136,700	90,200
	November	336,700	103,900	191,900	96,300	95,600	40,900
	December	302,600	103,700	166,300	96,200	70,100	32,600
1958	January	303,100	103,400	170,900	96,100	74,800	28,800
	February	286,300	103,100	156,500	96,000	60,500	26,700
	March	274,100	102,900	142,600	95,800	46,800	28,600
	April	274,800	102,500	144,500	95,700	48,800	27,800
	May	362,300	102,200	209,800	95,600	114,200	50,300
	June	388,300	102,000	224,600	95,500	129,100	61,700
	July	370,700	101,700	215,200	95,300	119,900	53,800
	August	385,200	101,400	227,400	95,200	132,200	56,400
	September	432,200	101,200	241,400	95,100	146,300	89,600
	October	422,800	100,900	247,100	95,000	152,100	74,800
	November	323,800	100,600	186,900	94,800	92,100	36,300
	December	293,400	100,300	162,100	94,700	67,400	31,000
1959	January	294,300	100,100	165,400	94,600	70,800	28,800
	February	283,700	99,800	154,200	94,500	59,700	29,700
	March	276,400	99,500	143,700	94,400	49,300	33,200
	April	304,700	99,200	164,800	94,200	70,600	40,700
	May	376,600	98,900	217,100	94,100	123,000	60,600
	June	377,700	98,600	220,100	94,000	126,100	59,000
	July	367,000	98,400	217,700	93,900	123,800	50,900
	August	385,600	98,100	226,800	93,700	133,100	60,700
	September	440,400	97,800	259,100	93,600	165,500	83,500
	October	388,700	97,600	230,000	93,500	136,500	61,100
	November	308,800	97,300	176,900	93,400	83,500	34,600
	December	292,000	97,000	164,700	93,200	71,500	30,300

APPENDIX C—EXHIBIT 1—Continued

Year and month		Total[a]	Farmers and unpaid family workers[a]	Hired domestic workers[a]			Foreign contract workers
				Total	Year-round	Temporary	
1960	January	291,900	96,800	165,700	93,100	72,600	29,400
	February	279,600	96,500	154,100	93,000	61,100	29,000
	March	267,800	96,200	142,800	92,900	49,900	28,800
	April	290,700	95,900	160,500	92,700	67,800	34,300
	May	354,700	95,700	206,500	92,600	113,900	52,500
	June	365,600	95,400	217,000	92,500	124,500	53,200
	July	365,700	95,100	226,000	92,400	133,600	44,600
	August	362,800	94,800	222,300	92,200	130,100	45,700
	September	403,800	94,600	237,600	92,100	145,500	71,600
	October	382,300	94,300	220,100	92,000	128,100	67,900
	November	299,400	94,000	174,100	91,900	82,200	31,300
	December	291,500	93,800	174,000	91,800	82,200	23,700
1961	January	289,600	93,500	174,100	91,600	82,500	22,000
	February	279,700	95,700	163,000	91,500	71,500	21,000
	March	264,600	96,100	148,600	91,400	57,200	19,900
	April	287,900	95,500	167,700	91,300	76,400	24,700
	May	347,600	97,300	209,300	91,100	118,200	41,000
	June	368,100	97,600	225,800	91,000	134,800	44,700
	July	354,900	96,100	220,600	90,900	129,700	38,200
	August	367,200	98,400	228,400	90,800	137,600	40,400
	September	419,600	98,300	260,400	90,600	169,800	60,900
	October	383,200	95,700	224,300	90,500	133,800	63,200
	November	286,800	91,400	169,700	90,400	79,300	25,700
	December	279,000	89,800	170,600	90,300	80,300	18,600
1962	January	284,200	90,200	176,900	90,100	86,800	17,100
	February	277,300	91,900	168,100	92,100	76,000	17,300
	March	264,900	92,800	154,800	92,800	62,000	17,300
	April	276,800	93,300	164,400	92,900	71,500	19,100
	May	345,900	96,200	209,600	96,600	113,000	40,100
	June	368,000	96,900	227,200	98,500	128,700	43,900
	July	347,700	95,800	216,200	97,100	119,100	35,700
	August	374,000	97,900	236,700	97,600	139,100	39,400
	September	428,700	97,800	258,000	97,900	160,100	72,900
	October	373,900	95,300	215,700	95,700	120,000	62,900
	November	275,900	90,300	165,400	90,600	74,800	20,200
	December	269,400	88,300	167,700	89,400	78,300	13,400

[a] The above series replace all previously issued data for total employment, farmers and unpaid family workers, and hired domestic workers. These revisions were made in January 1963 after extensive field review of new benchmark information obtained from employer reports of employment covered by agricultural disability insurance and the Censuses of 1959 (agriculture) and 1960 (population).

The following portions of Part I of the Committee's report have been revised, as indicated, in accordance with the new data received from the State Department of Employment. These revisions have been prepared so that they may be cut out and glued or taped in Part I at the proper sections.

Page 73, Part I:

FARMERS AND UNPAID FAMILY WORKERS

In 1960 it is estimated that a monthly average of ~~149,000~~ *95,260* farmers and unpaid family workers worked on California farms. These people constituted ~~33.6~~ *28.9* percent of the total average monthly labor force. This is the lowest absolute and relative number of farmers and family workers working in the last decade, as revealed by Figures 45 *(Rev.)* and 46 *(Rev.)*. *Through 1962, the lowest absolute number occurred in 1962—93,892—although the percentage of farmers and families was lowest in 1959 and 1960—28.9 percent.*

Seasonal fluctuations in the numbers of farmers and family workers have been ~~decreasing~~ *stable from* ~~since~~ 1949 *to 1961* , ~~when 140,000 and 160,000 were the estimated low and high numbers at work~~ *with a difference of approximately 3,000 workers between high and low employment peaks—a fluctuation of* ~~14.3~~ *2.4* percent *in 1960 increasing proportionately because of the overall decreasing numbers to 3.2 percent in 1960. In 1961 and 1962, however, the numbers and percentage of farmers and unpaid family members active in seasonal work increased significantly. In 1961, there was a seasonal fluctuation of 8,600 persons—a 9.6-percent increase—and in 1962, a fluctuation of 9,600—a 10.9 percent increase.* ~~—to 1960 when the low and high employment spread ranged from 145,000 to 152,600—a fluctuation of less than 5 percent in the supply of labor from this source.~~

As the number of farms in the State continues to decrease and the acreages of those remaining increases, it is logical to expect that the farmer and his family members will become of decreasing signi-

APPENDIX C—Continued

ficance to the State's total farm labor supply. In 1950, this category made up ~~39.5~~ *36.1* percent of the monthly average work force, ~~33.5~~ *29.7* percent of the farm labor supply at the peak employment period, and ~~47.5~~ *44* percent at its lowest. In 1960 its relative importance had dropped to ~~33.6~~ *28.9*, *24* percent, and ~~39~~ *35* percent, respectively, as indicated by Figure 46 (*Rev.*).

Page 74, Part I:

PERMANENT HIRED WORKERS

Much of the work done by permanent—or "regular"—hired labor is in agricultural industries such as dairying and poultry production. Also, many regularly employed persons are used in supervisory positions. Nevertheless, there is also substantial employment on a year-round basis on other kinds of farms and farm jobs. The average monthly estimated input of permanently hired workers in 1960 was ~~119,000~~ *92,433* — ~~26.8~~ *28* percent of the total average monthly farm work force. The stability of this labor supply and its utilization are demonstrated by Figures 45 *(Rev.)* and 47 *(Rev.)*. In absolute numbers, there has been little change. In 1960, the peak utilization of permanent hired workers was only ~~3.8~~ *1.3* percent greater than the low, while in 1950 the fluctuation between high and low utilization was ~~6.5~~ *1.4* percent. Again in absolute numbers, there were ~~13.5~~ *13.9* percent ~~more~~ *fewer* full-time hired farmworkers at work during the average month of 1960 than of 1950.

Permanent workers constituted ~~21.8~~ *24.7* percent of the peak California agricultural labor force in 1950 and ~~31.1~~ *37* percent of the low. In 1960 these proportions were ~~virtually the same~~ *slightly less*— ~~23~~ *23.1* percent at the high and ~~31.4~~ *34.3* at the low.

Page 75, Part I:

TEMPORARY HIRED DOMESTIC FARMWORKERS

The average monthly number of seasonal or temporarily hired domestic farmworkers employed in 1960 in California was estimated at ~~131,000~~ *99,292* persons, which is ~~not quite~~ *slightly over* 30 percent of the total average monthly farm work force of ~~444,000~~ *329,650* Figures 45 *(Rev.)* and 48 *(Rev.)*. Unlike the previously discussed categories of farm labor supply (farmers and unpaid family workers and year-round hired employees), however, the number of seasonal workers fluctuates enormously. From the low point of farm employment in 1960, the ~~81,500~~ *49,900* seasonal workers, comprising ~~21.9~~ *18.6* percent of the work force, increased at the peak to ~~196,800~~ *145,500*, or ~~37.2~~ *36* percent of the total workers. The fluctuation in numbers represents an increase of nearly ~~135~~ *192* percent.

Page 83, Part I:

FOREIGN CONTRACT WORKERS

Figures 45 *(Rev.)*, page 74 and 54 *(Rev.)* show that in 1960 slightly over ~~45,000~~ *42,500* foreign contract farmworkers were employed as a monthly average in California, ~~10.2~~ *12.9* percent of the total monthly agricultural work force. At the low point of total farm employment in 1960, ~~28,800~~ *23,700* foreign nationals were employed, representing ~~7.7~~ *8.8* percent of the work force, while during the greatest period of farm employment, the ~~58,200~~ *71,600* working foreign nationals comprised ~~11~~ *17.7* percent of the total workers. The fluctuation in numbers of foreign contract workers between total low and high farm employment represents an increase of 202 percent *in 1960*. Figure 55 *(Rev.)* indicates that at the statewide peak of total farm employment, ~~22.8~~ *33.0* percent of the seasonally hired workers were foreign nationals; at the employment low, foreign nationals made up ~~26.1~~ *32.2* percent of the seasonal work force; and ~~25.6~~ *30.1* percent of the average *monthly* complement of seasonal workers was comprised of foreign nationals.

FIGURE 45 (Rev.)

California Farm Employment, 1950-1962

Year	Total workers			Farmers and unpaid family workers			Hired domestic workers				Foreign contract workers		
							Temporary			Year-round			
	Average monthly	High	Low	Average monthly	High	Low	Average monthly	High	Low	Average	Average monthly	High	Low
1950	355,050	436,600	288,200	128,292	129,800	126,800	112,033	194,600	43,300	107,300	7,425	9,900	5,700
1951	353,700	454,100	279,500	124,983	126,500	123,500	104,300	188,500	35,900	105,817	18,600	36,200	10,800
1952	350,958	437,700	286,400	121,675	123,200	120,200	102,042	178,500	46,200	104,325	22,917	39,500	12,700
1953	356,958	443,700	285,000	118,367	119,900	116,800	110,408	191,600	44,100	102,850	25,333	40,800	17,300
1954	357,567	429,500	291,900	115,108	116,600	113,600	112,758	163,700	59,700	101,350	28,350	50,800	14,300
1955	363,258	456,100	299,200	111,783	113,300	110,200	111,408	178,900	62,500	99,867	40,200	74,300	21,200
1956	360,100	464,800	292,800	108,467	110,000	106,900	102,375	167,600	55,900	98,375	50,883	95,400	22,700
1957	353,883	446,700	283,100	105,167	106,700	103,700	98,900	161,000	44,900	96,892	52,925	90,200	27,400
1958	343,083	432,200	274,100	101,850	103,400	100,300	98,683	152,100	46,800	95,400	47,150	89,600	26,700
1959	341,325	440,400	276,400	98,525	100,100	97,000	101,117	165,500	49,300	93,925	47,758	83,500	28,800
1960	329,650	403,800	267,800	95,260	96,800	93,800	99,292	145,500	49,900	92,433	42,667	71,600	23,700
1961	327,350	419,600	264,600	95,450	98,400	89,800	105,925	169,800	57,200	90,950	35,025	63,200	18,600
1962	323,892	428,700	264,900	93,892	97,900	88,300	102,450	160,100	62,000	94,275	33,275	72,900	13,400

SOURCE: State of California, Department of Employment Research and Statistics Section, Estimates of Agriculture Employment, (Revised January, 1963).

APPENDIX C—Continued

FIGURE 46 (Rev.)

Farmers and Unpaid Family Workers as Percentage of Total California Farm Employment, 1950-1962

Year	Average monthly	High	Low
1950	36.1%	29.7%	44.0%
1951	35.3	27.8	44.2
1952	34.7	28.1	42.0
1953	33.2	27.0	41.0
1954	32.2	27.1	38.9
1955	30.8	24.8	36.8
1956	30.1	23.7	36.5
1957	29.7	23.9	36.6
1958	29.7	23.9	36.6
1959	28.9	22.7	35.1
1960	28.9	24.0	35.0
1961	29.2	23.4	33.9
1962	29.0	22.8	33.3

SOURCE: Same as Figure 45.

FIGURE 47 (Rev.)

Permanent Hired Workers, Number and Percentage of Total California Farm Employment, 1950, 1955, 1958, 1959, 1960, 1961, and 1962

Year	Monthly average		High		Low	
	Number	Percent	Number	Percent	Number	Percent
1950	107,300	30.2	108,000	24.7	106,600	37.0
1955	99,867	27.5	100,500	22.0	99,200	33.2
1958	95,400	27.8	96,100	22.2	94,700	34.5
1959	93,925	27.5	94,600	21.5	93,200	33.7
1960	92,433	28.0	93,100	23.1	91,800	34.3
1961	90,950	27.8	91,600	21.8	90,300	34.1
1962	94,275	29.1	98,500	23.0	89,400	33.7

SOURCE: Same as Figure 45.

FIGURE 48 (Rev.)

Temporary Hired Domestic Workers as Percentage of Total California Farm Employment, 1950-1962

Year	Monthly average	High	Low
1950	31.6%	44.6%	15.0%
1951	29.5	41.5	12.8
1952	29.1	40.8	16.1
1953	30.9	43.2	15.5
1954	31.5	38.1	20.5
1955	30.7	39.2	20.9
1956	28.4	36.1	19.1
1957	27.9	36.0	15.9
1958	28.8	35.2	17.1
1959	29.6	37.6	17.8
1960	30.1	36.0	18.6
1961	32.4	40.5	21.6
1962	31.6	37.3	23.4

SOURCE: Same as Figure 45.

FIGURE 54 (Rev.)

Foreign Contract Workers as Percentage of Total California Farm Employment, 1950-1962

Year	Monthly average	High	Low
1950	2.1%	2.3%	2.0%
1951	5.3	8.0	3.9
1952	6.5	9.0	4.4
1953	7.1	9.2	6.1
1954	7.9	11.8	4.9
1955	11.1	16.3	7.1
1956	14.1	20.5	9.8
1957	15.0	20.2	9.7
1958	13.7	20.7	9.7
1959	14.0	19.0	10.4
1960	12.9	17.7	8.8
1961	10.7	15.1	7.0
1962	10.3	17.0	5.1

SOURCE: Same as Figure 45.

FIGURE 55 (Rev.)

Foreign Contract Farm Workers as Percentage of Total Temporary Hired Workers, California, 1950-1962

Year	Total temporary hired workers			Percent of foreign nationals		
	Average	High	Low	Average	High	Low
1950	119,458	204,500	49,000	6.2%	4.3%	11.6%
1951	122,900	224,700	46,700	15.1	16.1	23.1
1952	124,959	218,000	58,900	18.3	18.1	21.6
1953	135,741	232,400	61,400	18.7	17.6	28.2
1954	141,108	214,500	74,000	20.1	23.7	19.3
1955	151,608	253,200	83,700	26.5	20.3	25.3
1956	153,258	263,000	84,600	33.2	36.3	33.9
1957	151,825	251,200	72,300	34.8	35.9	37.9
1958	145,833	241,700	73,500	32.3	37.1	36.3
1959	148,875	249,000	78,100	32.1	33.5	36.9
1960	141,959	217,100	73,600	30.1	33.0	32.2
1961	140,950	233,000	75,800	24.8	27.1	24.5
1962	135,725	236,000	75,400	24.5	31.3	17.8

SOURCE: Same as Figure 45.

APPENDIX D

The following excerpts have been taken from the script of *Horizon,* a motion picture on California's agriculture produced under the auspices of the Council of California Growers. The committee expresses its gratitude to the council for permitting our reproduction of this material.

. . . Agriculture!—Consider the facts—this multi-billion-dollar industry pours more NEW wealth into the State's economy EACH year than has all the gold taken out of its mines since the gold rush.

Where other states have vast and rich farm plains . . . California has limited valleys and foothills. Yet our yearly farm sales exceed all the rest. In winning and holding this leadership, agriculture has become the backbone of this State's economy.

Well over half a million people work on California farms . . .

Another million and a half work in agriculture's allied industries. At the latest count . . . it was found that the jobs of one out of every three working Californians . . . rest on agriculture—directly or indirectly.

In fact, agricultural industry employs MORE people, and invests more money per job than any other.

We grow more than 200 commercial crops . . . a variety unmatched anywhere. In 35 of these crops, California ranks first. In 27 crops, we produce over 50 percent of the entire Nation's supply. In 17 crops, 90 percent or more of the Nation's entire output is produced in these hills and valleys.

With so large and varied an output, California's agricultural market is not only NATIONwide, it is WORLDwide.

In some phases, our lead is unchallenged . . . All together, California produces over 42 percent of the nation's fruit and nut crops.

Equally impressive . . . is our record in THIS field. California supplies 43 percent of the nation's vegetables . . .

. . . and so it is in almost every category . . .

How many people know that California leads the Nation in rice production?

Most of us seldom use barley directly—so we're unaware that it's one of the State's top 10 crops.

California's biggest cash crop is a prime, high quality cotton, with markets all over the world.

To most people's surprise, HAY is our number two field crop. Imagine producing, in a single year, over 170 MILLION dollars' worth of hay! Where does it all GO?!

Actually, very little of it leaves the State, for hay is a basic in the BIGGEST branch of California agriculture . . .

. . . livestock . . . and livestock products—which take many forms. In every phase, California is either leading the field now . . . or soon will be. This applies to the dairy industry, with close to a million cows . . .

. . . and outstanding in the production of milk and cream.

In the field of poultry . . . we're first in our output of turkeys.

We're first in a poultry product which is found in every American refrigerator . . .

. . . eggs! Imagine the production of over 6 BILLION eggs in a single year!

Next to the top in sheep and lamb, we are a major source of related meats and wool. But bigger than this . . .

. . . is our cattle feeding and beef production. We're close to being the nation's largest single source of beef supply. This, plus all the other facts cited, have made California the Nation's leading agricultural state . . . Yet—we can well understand why the myth-makers overlook agriculture—the State's dominant industry. It is difficult to believe that so MUCH comes from so little.

The farmland is a small part of the State's area—slivers of arable land surrounded by foothills, glamorous mountains and deserts.

APPENDIX D—Continued

It isn't EASY to believe that California, with less than THREE percent of the Nation's farms, supplies over TWENTY-FIVE percent of the Nation's table food. But this amazing fact is true . . .

. . . and it affirms agriculture as the State's biggest achievement . . . the very CORE of California's growth and vitality . . .

As you move through the crowded city, farming seems to be a different and faraway world . . . with work and problems SEPARATE from your own. But the FACTS show your life is closely interlocked with the farmer's. Of course, there IS a connection city people DO see . . .

. . . the grocery business! You know that your food comes from the farm. But do you know that the BIGGEST retail business in ANY city is its FOOD business? So . . . whether you operate, *work* in, or *buy* from a grocery store, you and the farmer DO have a mutual interest!

Do you work for a newspaper? magazine? advertising agency? Open any newspaper or magazine and see how BIG a proportion of its advertising income rests on the food industry.

Are you one of the thousands who works for or invests in a public utility? The farmer is one of your biggest customers. Where the average household uses 3,800 kilowatt-hours per year, the California farmer burns up over SEVENTY-FOUR thousand!

In farm equipment there is steel, rubber, engines—a complex of things all built in towns or cities. Do you sell this equipment? Work in an engine shop? Tire warehouse? The California farmer has over a BILLION dollars invested in the output of YOUR job.

Do you work in the GLASS industry? A wide variety of farm products reach the consumer in glass containers. If only bottles . . .

. . . and jars are considered . . . California's farm products fill BILLIONS of them every single year.

Do you work or invest in petroleum products? The California farmer spends over 100 MILLION dollars a year on YOUR output . . . and this sum is constantly rising.

Do you work in the chemical industry? Whether you work in the plant, the laboratory, or the distribution phase of your business—you're working WITH the farmer! Hundreds of millions are spent by the California farmer on fertilizers, pest controls.

Do you work in your city's financial district? Agriculture and its allied industries handle BILLIONS of dollars per year . . . and all of these billions flow through every type of financial institution . . . including yours.

Consider food processing. One-third of the Nation's entire output is supplied by California. Its investment totals BILLIONS . . . practically all its plants and machinery are *built* in *cities*. And most of the plants are *staffed* by people who *live* in towns or cities.

The canning industry *alone* employs close to 160,000 people at peak season. And what about its many sources of supply . . . ?

Do you work in a steel mill? It takes 600,000 tons of tinplate every year to supply the cans. Do you market or sell cans? We BUY five BILLION every year.

Are you in the glass industry? We buy over a BILLION glass jars annually.

Do you work in the paper industry, or printing, or lithography? Each year we BUY over one MILLION *miles* of labels.

Do you work in the cartonmaking industry? The canneries alone BUY over TWO HUNDRED MILLION shipping containers a year. But canning is only *part* of the food processing industry . . . and food processing is just *one* of the State's agricultural associates. For example . . .

. . . are you in any phase of the transportation business? Agriculture and its allied industries use a major portion of all the trucking in California.

Are you with the railroads? California farm products account for nearly one-third of the State's total rail shipments.

Have you anything to do with ships?—Consider just wine. Since 90 percent of all the Nation's grapes are grown in this State, it's not surprising that we produce 85 percent of the nation's wine—and special winecarrying ships have been built to help carry this tremendous volume. Actually . . .

. . . nearly ONE-HALF the total value of ALL waterborne exports from California ports is directly related to the State's agriculture. Are you in the export business? From our shipments to other countries we bring into this State almost half a billion dollars a year! We COULD go on . . . but just the HIGHLIGHTS . . .

APPENDIX D—Continued

. . . are enough to show that no matter where you live or what you do, your job and the California grower's are closely interlocked. You are the major buyer of HIS output. HE is a major buyer of yours. Yes . . . *Geographically,* the city and the farm ARE separate. Where one ends, the other begins. But in *economic* terms EACH is mutually dependant on the other. Farm is farm . . . and city is city. But the twain DO meet—every day . . . everywhere! . . .

Yes . . . there ARE large farms in this State. Large because the nature of the crop DEMANDS it! But actually . . . California has farms of *all* sizes . . .

. . . SEVENTY-ONE PERCENT of California's farms are 100 acres or LESS!—And how *rich* are these farmers, big, medium *or* small? Well . . . on an overall basis, farms get LESS return per dollar than any other major industry.

Suppose we move closer to reality. Much of the farmer's success depends on the weather . . . over which he has no control . . .

. . . once he launches any given crop . . . its timing from seed to maturity is in nature's hands . . . beyond his control.

By harvest time, market conditions for his particular crop may have completely changed . . . and most California crops cannot be stored. No problems?

The modern farmer must be a combination soil analyst, chemist, mechanic, engineer, economist, logistics expert, and prophet. Consider . . .

. . . since harvest time for tomatoes and similiar crops is brief, THOUSANDS of harvesters must be recruited in a short span of time. California growers provide the best working conditions and pay the *highest* farm wages in the land. With such costs steadily going *up*—and product prices practically *static*—the growers' profit rates are steadily going *down*. Any *easy* solution to this problem?

Insects and disease cause losses of over 280 million dollars a year. Weeds alone lose for the farmer almost a million dollars *a day*. The cure would cost millions —and even if he can afford it . . . will the investment pay off?

Long range problems? Here is one. Where housing, highways, and so on, have taken over a million acres of the State's prime farmland since 1942, another million and a half will be gobbled up by 1972. As a result . . .

. . . the farmer *must* move to less fertile soil, *must* use more chemicals and minerals per acre.

Irrigation *must* become more intensive. All of which means higher production costs and a much bigger investment in equipment. To give you some idea . . .

THIS grower needed an irrigation well. It had to be 2,500 feet deep. It cost over $80,000. But even more critical . . .

. . . are the POWER costs—over twelve thousand dollars a year just for the power needed to pump that water.

This is typical of MANY reasons why SOME farms MUST be big. No small farm could possibly carry such high costs. Actually . . . over a recent five-year period . . .

. . . farm production COSTS increased by over four hundred million dollars. While total NET farm income was practically static.

The farmer's share of the consumer's food dollar has dropped

. . . from 47 cents, a few years ago . . .

. . . to LESS than 39 cents today.

But then, say many people, the farmer always has subsidies to help him out. Again—let's examine the facts . . . as they apply to California . . .

. . . In a typical recent year—in the sixties . . .

. . . the total sales of California farm products came to slightly over three BILLION dollars. How MUCH of this was government payment? . . .

Government payments were just over two pennies per dollar. And over 90 percent of California's crops receive no supports at all. In short . . .

. . . though the California growers take a bigger risk they've had LESS support than many other major industries. Yet they are smashing their way through every major barrier. How? . . .

In 1940, one American farmer produced enough food and fiber . . .

. . . to supply 10 people.

By 1950 . . .

. . . one farmer was producing enough for FIFTEEN people.

APPENDIX D—Continued

And by the sixties he was producing enough for 25 people!

Rice harvesting is typical of the advance which has increased agriculture's productivity three times *faster* than manufacturing! And CALIFORNIA has set the pace. How did the farmer do it?

He harnessed the dynamics of modern science in ALL fields. From the laboratories of universities and industry have come—fertilizers which have vastly increased the productivity of the soil . . .

. . . NEW SEEDS! SEVENTY PERCENT of all farmland is now planted to varieties of crop not even KNOWN in 1940 . . .

. . . New Pest controls!

NEW irrigation techniques and controls! In California . . . 69 percent of ALL crop land is under irrigation.

Better protection against the ravages of frost—each adapted to the crop and its location.

The advances in livestock have been equally impressive. California's cattle feeding industry is 6 times the size it was only 15 years ago.

Since 1940, the milk output per cow has been increased *41* percent!

To raise chicks to three and a half pounds in 1947, it USED to take 89 days.

By 1961 the time was cut to 52 days!—a progress typical in ALL fields of agriculture. But the most VISIBLE advance . . .

. . . has been its increasing MECHANIZATION. The first BIG step was in PLOWING.

Fertilizing has been mechanized to where the soil is enriched far more effectively—with a sharp cut in the man-hours required.

Even planes are used for fertilizing; . . .

. . . for planting—in such areas as pasture and timber lands;—

—for major pest control. The modern formulas carefully applied actually improve product QUALITY for the ultimate consumer. Since quality IS a prime factor . . .

. . . almost every crop has its specialized equipment. The guiding principle is to reduce cost—increase productivity per acre, but never sacrifice quality. So . . .

. . . where MANUAL techniques still deliver the best crops . . . preserve freshness—

—or crispness—they are *still* used. Yet—one of the broadest advances . . .

. . . has *been* in harvesting. In the carrot fields, for example, a typical harvesting machine replaces the hard stoop labor of over 40 workers.

The tedious harvesting of prunes USED to cost 15 dollars a ton. Improved methods have cut the cost at least one-third.

Modern nut-harvesting units eliminate the arduous manual labor of up to forty workers.

The cost of harvesting the huge potato crop has been reduced a full 60 percent.

The back breaking sugar beet harvest is now completely mechanized.

Remember how cotton USED to be picked? This is the classic picture in the American mind. This method has practically disappeared in modern day farming . . .

. . . modern methods have revolutionized the cotton fields. In less than 20 years the yield per acre has risen over 80 percent! The man-hours to produce one bale of cotton have been reduced from 175 to 61! and the cotton has been stepped up to much finer quality. This is typical of California agriculture.

And because California has set the pace for the Nation, it has become, in many fields, the major source of supply for all Americans, and in many world wide markets. But what, if anything, has this progress meant to YOU, as a consumer?

In 1940, out of every dollar earned by the average worker . . .

. . . 40 cents was spent to feed his family.

By the sixties—out of every dollar he earned . . .

. . . only TWENTY cents—provided the same size family with more and BETTER food! In short . . .

. . . TWENTY percent of his pay was *released* from his food budget. On a *national* scale this . . .

APPENDIX D—Continued

. . . means BILLIONS of dollars.

Billions released from the food basic, to buy more cars, more homes, plus everything it takes to make them *better* homes. The revolution in the Nation's farming has been a major factor in giving this tremendous boost to the entire nation's economy.

The CALIFORNIA growers have created an agriculture that—in variety—quality—and productivity per acre—has never been matched anywhere in the world's history. Have we reached the peak period? Hardly . . . the experts see us on the *horizon* of an era which will far surpass this one.

Already in the experimental stage is a whole RANGE of new ideas, new methods, new devices . . . all conceived to bring us ever closer to agriculture's goals . . . to improve QUALITY . . . to relieve man's age-old labor burden . . . to bring MORE ABUNDANCE . . . to more PEOPLE.

We've shown just a FRACTION of the progress planned for tomorrow. But even this PEEK into the future . . .

. . . affirms that California's agricultural revolution of the past quarter century—IMPRESSIVE as it has been—is just hitting its stride. We're on the horizon of greater progress to come.

END OF [illegible]

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